



An
Bord
Pleanála

S.4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016

Inspector's Report ABP-312218-21

Strategic Housing Development

Demolish buildings and construct 545 build-to-rent apartments, commercial, retail and office units, childcare facility, ancillary residents' facilities and associated development

Location

Concorde Industrial Estate, Naas Road, Dublin 12

Planning Authority

Dublin City Council

Applicant

Silvermount Limited

Prescribed Bodies

1. Irish Water
2. Transport Infrastructure Ireland

Observers

1. John Conway and the Louth Environmental Group

Date of Site Inspection

23rd March 2022

Inspector

Colm McLoughlin

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1.0 Introduction

- 1.1. This report provides an assessment of a proposed strategic housing development submitted to An Bord Pleanála under the provisions of section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (hereinafter referred to as ‘the Act of 2016’).

2.0 Site Location and Description

- 2.1. Situated 5km to the southwest of Dublin city centre in the Bluebell/Drimnagh area fronting onto the Naas Road, the application site primarily comprises commercial and light industrial type units, including car showrooms, car rental, vehicle repair and recovery, motor parts sales, gymnasium and café uses. The site is stated to measure 1.94ha and was previously subject of a permission for a strategic housing development under An Bord Pleanála (ABP) reference (ref.) 304383-19 granted in August 2019 for 492 build-to-rent apartments, as well as ten commercial units. The main buildings on site are aligned parallel with and setback by over 30m from the Naas Road, including the Luas redline tracks.
- 2.2. The eastern boundary is formed by Carriglea industrial estate access road, which provides a gated vehicular access to the front of the buildings on site, including car sales yards and car parking, and a separate gated vehicular access to the rear of the site comprising open yards, parking and loading bays. The site is relatively open to the front along the Naas Road with a low post and chain fence, as well as flag poles, generally marking the roadside boundary. The rear and west side boundaries are marked by a mix of block walls and security fences, with a line of mature trees on the rear boundary. Perpendicular parking bays serving the units on site are situated along Carriglea industrial estate access road, which features a traffic-light controlled junction onto the Naas Road. The application site comprises a wedge of roadway at this junction.
- 2.3. Electricity pylons and their associated overhead 38Kv and 110Kv lines traverse the site, and a trunk sewer runs along the northern and eastern boundaries. Ground levels on site are relatively level throughout, with the northern boundary parking area raised approximately 0.5m to 1m above the immediate ground to the south, while the remainder of the site features only a marginal drop in levels to the southeast corner.

- 2.4. The immediate area is characterised by a mix of land uses, including light industrial uses and warehouse uses to the east, a wide variety of commercial uses to the north along Naas Road, open car lots and recreational grounds to the south, including playing fields associated with Drimnagh Castle Post-Primary School, and a large construction site within the former Carriglea industrial estate, with apartment blocks on the eastern side substantively complete.

3.0 Proposed Strategic Housing Development

- 3.1. The proposed strategic housing development would consist of the following elements:

Demolition Works

- the demolition and removal of all buildings on site measuring a stated gross floor area (GFA) of 8,660sq.m;

Construction Works

- the provision of 545 build-to-rent apartments in six blocks (A to F) ranging from single to ten storeys over basement level;
- the provision of 12 non-residential units at ground and first-floor levels to block A, including a commercial/retail unit (345 sq.m), a shop (147sq.m), shop/convenience store (419 sq.m), five café/restaurants ranging in size from (46sq.m. to 329 sq.m), a childcare facility (379 sq.m) with associated outdoor play space (151 sq.m), medical centre (521 sq.m) and two shared office spaces (566 sq.m and 150 sq.m);
- the provision of resident support facilities, including reception / concierge, waste management facilities, and the provision of resident services and amenities including, internal common areas, shared-work space and multi-function event spaces (2,523 sq.m);

Ancillary and Supporting Works

- two vehicular access from Carriglea industrial estate road to a front surface-level car park and to a rear basement-level car park, as well as pedestrian

and cyclist routes, including pedestrian crossing and upgraded footpath along the Naas Road;

- internal shared surface, fire tender, pedestrian and cyclist routes, lighting and signage;
- a total of 270 car parking spaces, including ten car-club spaces, as well as 668 cycle parking spaces;
- the provision of hard and soft landscaping, including courtyard and roof terrace communal spaces, revised boundary treatments, public open space measuring a stated 2,593sq.m, a statue, play areas including public playground (812sq.m);
- drainage and civils works to facilitate the development, sustainable urban drainage systems (SUDS), surface and foul drainage infrastructure and all other associated and ancillary development/works, including the provision of green roofs, screened plant areas and photovoltaic panels at roof level, eight microwave link dishes installed on two 2m-high steel poles with associated equipment on the rooftop of Block A, four electricity substations and switch rooms.

3.2. The following tables set out the key features of the proposed strategic housing development:

Table 1. Development Standards

Site Area (gross)	1.94ha
(net - excluding roadway)	1.88ha
No. of build-to-rent apartments	545
Part V units (%)	54 (10%)
Residential Gross Floor Area (GFA)	52,869sq.m
Non-residential GFA (% total GFA)	3,812sq.m (6.7%)
Total GFA	56,681sq.m
Basement Car Park	c.8,838sq.m
Residential Density (net)	290 units per ha
Communal Open Space	5,946sq.m
Public Open Space (% of site area)	2,593sq.m (13.7%)
Plot Ratio	3.0

Site Coverage	39.5%
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Table 2. Unit Mix

	Studio	One-bedroom	Two-bedroom (three-person)	Two-bedroom (four-person)	Three-bedroom	Total
Apartments	19	220	35	254	17	545
% of units	3.5%	40.0%	6.5%	47.0%	3.0%	100%
Bedspace	19	220	70	508	34	851

Table 3. Maximum Building Heights

Storeys	Height
10	33.5m

Table 4. Parking Spaces

Car parking - Standard	220
Car parking – Electric vehicles	25
Car parking - Universal	15
Car parking – Car club	10
Total Car parking	270
Cycle parking	668

3.3. In addition to the standard contents, the application was accompanied by various technical reports and drawings, including the following:

- Part V Validation Letter;
- BTR Legal Covenant;
- Letter of Consent from Dublin City Council;
- Irish Water Pre-Connection Enquiry Letter for the site;
- Irish Water Statement of Design Acceptance for the site;
- Statement of Consistency;
- Statement of Material Contravention;
- Social and Community Audit / Assessment;
- Statement of Response to An Bord Pleanála's Opinion;
- Urban Design Report;
- Housing Quality Assessment;
- Building Life Cycle Report;
- Civil Engineering Infrastructure Report and Flood Risk Assessment;
- Traffic Impact Assessment;

- Residential Travel Plan Framework;
- Mobility Management Plan;
- Construction and Demolition Waste Management Plan;
- Construction and Environmental Management Plan;
- DMURS Statement of Consistency;
- Quality Audit;
- Road Safety Audit;
- Landscape Design Rationale;
- Sustainability and Energy Efficiency Report;
- Site Lighting Report;
- CGIs & Photomontages;
- AA Screening;
- Hydrological Assessment;
- Operational Waste Management Plan;
- Telecommunications Report;
- COMAH Land Use Planning Report;
- BTR Operational Management & Servicing Plan;
- Daylight, Sunlight & Overshadowing Study;
- Pedestrian Comfort CFD Analysis;
- Economic Report;
- Environmental Impact Assessment Report, including Non – Technical Summary.

4.0 Planning History

4.1. Application Site

4.1.1. As noted above the application site was subject of the following previous strategic housing development application:

- ABP ref. 304383-19 – permission granted by the Board in August 2019 for demolition of buildings on site and construction of 479 build-to-rent apartments and seven ground-floor commercial units in buildings with a maximum height of eight storeys.

4.1.2. The applicant and the Planning Authority also refer to an extensive planning history for the site generally referring to minor alterations and changes of use to the commercial buildings between March 1999 and June 2005.

4.2. Surrounding Area

4.2.1. Recent planning applications in the neighbouring area are generally reflective of the wide range of land uses in the vicinity and the restructuring character of this city gateway area. At present, the closest strategic housing development applications in the vicinity of the application site relate to the following:

- ABP ref. 311606-21 – permission was granted by the Board in January 2022 for 249 apartments, a community facility (173sq.m), a café (155sq.m), a digital hub (140sq.m) and residents' amenity space, forming phase 2 development of the Carriglea industrial estate adjacent to the southeast of the site. Phase 1 development on this adjacent site for 144 units, a gymnasium (331sq.) and a childcare facility (425sq.m) was permitted in October 2016 under DCC ref. 4244/15 and is currently under construction;
- ABP ref. 304686-19 – permission was granted by the Board in September 2019 for 153 apartments and townhouses on a site located approximately 500m to the southeast of the application site on the Long Mile Road.

4.2.2. The following application relates to a large-scale mixed-use development on the Royal Liver Insurance Retail Park site located 40m to the northwest of the subject application site along the Naas Road:

- ABP ref. 307804-20 / DCC ref. 4238/19 – permission was granted by the Board in November 2020 for a period of ten years for a development comprising the demolition of single-storey warehouse buildings (12,800sq.m) to provide for nine buildings ranging in height from 7 to 18 storeys containing 992 build-to-rent apartments and 203 shared-accommodation units, an office block (17,292sq.m), a retail unit (2,360sq.m), four café/bar/restaurant units (846.5sq.m), a medical centre (237sq.m) and a crèche (462sq.m).

4.2.3. The following application relates to a large-scale mixed-use development on the Nissan site located adjoining to the south of the subject application site:

- DCC ref. 4238/19 – a ten-year permission was granted by the Planning Authority in February 2021 for the demolition of buildings (8,016sq.m) and the construction of a mixed-use development comprising 13 buildings ranging in height from four to 15 storeys, containing 1,123 build-to-rent residential units, a hotel (7,415sq.m), ten retail units (2,622sq.m), offices (5,002sq.m), a primary healthcare centre (994sq.m), a childcare facility (969sq.m), a cultural hub (486sq.m) and a gymnasium (210sq.m).

5.0 Section 5 Pre-application Consultation

5.1. Pre-application Consultation

5.1.1. A pre-application consultation meeting between representatives of An Bord Pleanála, the applicant and the Planning Authority took place on the 26th day of January, 2021, in respect of a proposed development comprising 548 build-to-rent apartments, a childcare facility, commercial units and associated site works. Copies of the record of this consultation meeting and the Inspector's report are appended to this file. The main topics raised for discussion at the tripartite meeting were as follows:

- matters arising from the previous permission on site, including addressing condition no.4, dual aspect provision and building height justification;
- design and layout, including open space provision, landscaping and photomontage details;

- residential amenity, including compliance with specific planning policy requirements (SPPRs) 7 and 8 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020), the definition of amenity spaces, refuse areas, childcare provision and lighting;
- transport issues, including access and parking for bicycles, road safety audit recommendations and the impact of the provision of a pedestrian link.

5.2. Board Opinion

5.2.1. In the Notice of Pre-Application Consultation Opinion (ref. ABP-309666-21) dated the 22nd day of February, 2021, An Bord Pleanála stated that it was of the opinion that the documents submitted constituted a reasonable basis for an application under section 4 of the Act of 2016. In the opinion of An Bord Pleanála, the following specific information, in addition to the standard strategic housing development application requirements, should be submitted with any application for permission arising:

- housing quality assessment;
- computer-generated images (CGIs) and/or visualisations/cross-section drawings;
- a landscaping plan identifying the quantum and function of open space;
- sunlight and daylight assessments;
- management and operation details for the build-to-rent development;
- building lifecycle report;
- dual aspect details and justification for any north-facing single-aspect units;
- a site layout plan detailing areas to be taken in charge;
- a response to transport matters raised by the Planning Authority, including walkways and cycle infrastructure;
- a microclimate impact assessment;
- a construction environmental management plan;

- a waste management plan;
- an operational services management plan.

5.2.2. The prospective applicant was requested to notify the following prescribed bodies in relation to the application:

- Irish Water;
- Transport Infrastructure Ireland;
- the National Transport Authority;
- the Dublin City Childcare Committee.

5.3. **Applicant's Response to Opinion**

5.3.1. The application includes a report titled 'Statement of Response to ABP's Opinion'. Section 2 of the applicant's response report outlines the specific application information that has been submitted with the application, while also detailing how the development is considered to comply with the respective requirements listed in the Board's opinion.

6.0 **Planning Policy**

6.1. **National Planning Policy**

Project Ireland 2040 - National Planning Framework

6.1.1. Project Ireland 2040 links planning and investment in Ireland through the National Planning Framework (NPF) and a ten-year National Development Plan (NDP). The NPF encapsulates the Government's high-level strategic plan for shaping the future growth and development of Ireland to the year 2040, and within this framework Dublin is identified as one of five cities to support significant population and employment growth. The NPF supports the requirement set out in the Government's strategy for 'Rebuilding Ireland: Action Plan for Housing and Homelessness (2016)', in order to ensure the provision of a social and affordable supply of housing in appropriate locations. National policy objectives (NPOs) for people, homes and communities are set out under chapter 6 of the NPF. NPO 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and

at an appropriate scale of provision relative to the location. Other NPOs of relevance to this application include NPOs 13 (development standards), 27 (transport alternatives) and 35 (increased densities) relating to densification and compact urban growth.

Ministerial Guidelines

6.1.2. In consideration of the nature and scale of the proposed development, the receiving environment and the site context, as well as the documentation on file, including the submissions from the Planning Authority and other parties addressed below, I am satisfied that the directly relevant Section 28 Ministerial Guidelines, including revisions to same, comprise:

- Regulation of Commercial Institutional Investment in Housing - Guidelines for Planning Authorities (2021);
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020);
- Design Manual for Urban Roads and Streets (2019);
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018);
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009);
- The Planning System and Flood Risk Management, including the associated Technical Appendices (2009);
- Childcare Facilities – Guidelines for Planning Authorities (2001) and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme.

6.1.3. The following planning guidance and strategy documents are also considered relevant:

- Housing for All – A New Housing Plan for Ireland (2021);
- Climate Action Plan (2021);

- Traffic Management Guidelines (Department of Transport, Tourism and Sport, 2019);
- British Standard (BS) EN 17037:2018 ‘Daylight in Buildings’ (2018);
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment (2018);
- Part V of the Planning and Development Act 2000 - Guidelines (2017);
- National Biodiversity Action Plan 2017-2021;
- Rebuilding Ireland - Action Plan for Housing and Homelessness (2016);
- Traffic and Transport Assessment Guidelines (Transport Infrastructure Ireland, 2014);
- Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice, (Building Research Establishment [BRE] 209, Paul J. Littlefair, 2nd Edition 2011);
- Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities (2009);
- Smarter Travel – A Sustainable Transport Future. A New Transport Policy for Ireland 2009 – 2020 (Department of Transport, 2009);
- Best Practice Guidelines for Delivering Homes, Sustaining Communities – Quality Housing for Sustainable Communities (2007);
- Greater Dublin Regional Code of Practice for Drainage Works (Version 6.0).

6.2. Regional Planning Policy

6.2.1. The ‘Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy (RSES) 2019-2031’ supports the implementation of Project Ireland 2040 and the economic and climate policies of the Government, by providing a long-term strategic planning and economic framework for the region. The following regional policy objective (RPO) of the RSES is considered relevant to this application:

- RPO 3.2 – in promoting compact urban growth, a target of at least 50% of all new homes should be built within or contiguous to the existing built-up area of

Dublin city and its suburbs, while a target of at least 30% is required for other urban areas.

- 6.2.2. According to the RSES, the site lies within the Dublin metropolitan area, where it is intended to deliver sustainable growth through the Dublin Metropolitan Area Strategic Plan (MASP) to ensure a steady supply of serviced development land. Key principles of the MASP include compact sustainable growth and accelerated housing delivery, integrated transport and land use, and the alignment of growth with enabling infrastructure.

6.3. Local Planning Policy

Dublin City Development Plan 2016-2022

- 6.3.1. The application site and all of the adjoining lands have a land-use zoning objective 'Z14 - Strategic Development and Regeneration Areas (SDRAs)' within the Dublin City Development Plan 2016-2022, with a stated objective 'to seek the social, economic and physical development and/or rejuvenation of an area with mixed use, of which residential and 'Z6' would be the predominant uses'. The Development Plan states that these areas have the capacity for a substantial amount of development. Permissible uses in 'Z14' areas include residential uses, childcare facilities, community facilities, medical and related consultants, offices, open space, restaurant and neighbourhood shops. Commercial retail warehousing type units would be 'open for consideration' uses according to the Development Plan. There is a requirement for 10% of 'Z14' lands that are to be developed to be provided as meaningful public open space, although this can be addressed via contributions in lieu of a shortfall in certain circumstances. The indicative plot ratio for developing 'Z14' lands is stated as being within 1.0 and 3.0, and an indicative site coverage of up to 50% is also provided for in the Development Plan.
- 6.3.2. The site is identified in the Plan as forming part of SDRA 5 for the Naas Road lands. Section 4 of the Plan states that in such areas higher densities will be promoted. The Development Plan identifies that the lands form part of approximately 100 hectares of major brownfield sites on a gateway into the city with good public transport links, all included within the Naas Road Lands Local Area Plan 2013. Table E of the Development Plan sets out an estimated capacity of 2,100 residential

units on the Naas Road SDRA 5 lands. Figure 24 of the Development Plan illustrates the land-use strategy for the application site to provide for commercial uses to the front and 'residential and associated uses' towards the rear. The application site is not identified as a key redevelopment site for SDRA 5 in the Development Plan.

- 6.3.3. As it is projected to be a key population growth centre, the Naas Road area is identified as a 'Key District Centre' in the Development Plan, conforming to the top-tier of urban centres outside of the city centre. The Development Plan sets out a range of policies aimed at focussing a variety of uses into such areas. Map K of the Development Plan identifies the site as being within the Naas Road key district centre (KDC) lands and it also refers to the estimated development capacity of these KDC lands as providing for 500,000sq.m of mixed-use development over a 20-year plus timescale, including approximately 500 residential units.
- 6.3.4. Under Policy QH1 of the Development Plan, the Planning Authority will have regard to various Ministerial Guidelines, a number of which are listed in Section 6.1 above, including Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009). Policy SC13 promotes sustainable densities with due consideration for surrounding residential amenities. The Development Plan includes a host of policies addressing and promoting apartment developments. The BRE 209 document 'Site Layout Planning for Daylight and Sunlight - A Guide to Good Practice' (2011) is referenced in the Development Plan with respect to the consideration of aspect, natural lighting, ventilation and sunlight penetration for new apartments.
- 6.3.5. Section 16.7.2 of the Development Plan sets out building height limits, including a 24m restriction for commercial and residential buildings within 500m of an existing Luas station. Other relevant sections of the Development Plan include the following:
- Section 4.5.3 - Making a More Compact Sustainable City;
 - Section 4.5.9 – Urban Form & Architecture;
 - Section 9.5.4 - Sustainable Urban Drainage Systems (SUDS);
 - Section 16.2 – Design, Principles & Standards;
 - Section 16.10 - Standards for Residential Accommodation;

- Section 16.38 – Car Parking Standards (Zone 2 – maximum of one space per residential unit, one space per 200sq.m office, one space per 275sq.m retail [Main Street], one space per 150sq.m restaurant seating area and two spaces per consulting room in group practices);
- Section 16.39 - Cycle Parking Standards (Zone 2 - minimum of one space per residential unit, one space per 150sq.m employment, one space per 150sq.m retail [Main Street], one space per 150sq.m restaurant, one space per two consulting room in group medical practices and one space per three pupils in 'other educational buildings').

6.3.6. The Development Plan also includes a number of appendices, including those with respect to childcare facilities, safety and security design and access for all.

6.3.7. Dublin City Council has released a Draft Dublin City Development Plan for the period 2022 to 2028. Within this draft Plan the application site continues to be assigned a 'Z14 – SDRA' zoning and it is located within a key urban village, which would appear to comprise a reduced area when compared with the current Plan KDC area.

Naas Road Lands Local Area Plan 2013

6.3.8. According to the Planning Authority, the Naas Road Lands Local Area Plan 2013 has been extended to cover the period up to January 2023, and this Plan identifies the application site as being within key district centre lands. The Local Area Plan sets out that the area contained approximately 500 residential units comprising approximately 120 houses and 380 apartments in 2013. The estimated quantum of development arising from the land use strategy is expected to provide for 125,000sq.m of residential floor space in the medium term (2023) and 200,000sq.m in the long term (2028-2032) or approximately 2,100 residential units. The Local Area Plan also sets out the quantum of net retail, community, commercial and industrial floor space over the short term, medium term and long term. The Local Area Plan stipulates that the residential floor space figures are approximate and that they would ultimately be determined by the detailed design, site availability and demand during each time period.

6.3.9. Development standards are outlined throughout the Local Area Plan, as well as specific objectives relating to the site. Figures 4.5 and 4.12 indicate a proposed pedestrian linkage alongside a 'green space' cutting through the rear of the site,

while Carriglea industrial estate access road is to accommodate a 'new city wide green route'. Map 4.6 of the Plan identifies a band to the front of the site running parallel with the Naas Road capable of accommodating indicative heights of four to six storeys (20m to 24m), while Development Plan indicative heights are assigned to the area to the south of this within the application site boundaries. The Local Area Plan sets out that within the area covered a net density of between 45 to 50 residential dwellings per hectare is sought and a variety of dwelling typologies will be encouraged. The indicative plot ratio of 1.0 – 3.0 and the indicative site coverage figure of 50% outlined in the Development Plan for this area are also referred to in the Local Area Plan.

- 6.3.10. The Local Area Plan sets out masterplan details, including indicative layouts, linkages and building heights for the immediate lands to the application site that are within key development sites, including masterplans with respect to the Nissan site to the west and south, as well as the Muirfield Drive / Carriglea industrial estate lands to the east. Both areas are intended to provide for residential uses directly to the south of the application site, while enterprise / commercial / office uses are identified for the area adjacent to the east of the application site.
- 6.3.11. Health and Safety Authority (HSA) consultation zones for Seveso establishments are illustrated on map 4.10 of the Local Area Plan and this would appear to indicate the majority of the application site within the 700m consultation distance for BOC, Bluebell industrial estate and within the 1km consultation distance for Kayfoam Woollfson, Bluebell industrial estate. The site is identified in the Local Area Plan as being within 'flood zone C' with a low risk of flooding.

7.0 Statement of Consistency

- 7.1. The applicant has submitted a Statement of Consistency, as per the provisions of Section 8(1)(iv)(I) of the Act of 2016. Section 5 of the statement initially refers to the provisions of Project Ireland 2040, Rebuilding Ireland – Action Plan for Housing and Homelessness and Housing for All – A New Housing Plan for Ireland. The statement subsequently addresses Ministerial guidelines, including those referenced in section 6.1 above and other guidance documents. Section 6 of the statement focuses on local planning policy, including the Development Plan and the Local Area Plan. The

statement also refers to the various documentation and drawings contained within the application to assert adherence of the proposals to planning policies, objectives and standards. The statement asserts that the proposed development would be consistent with national, regional and local planning policy and that the proposed development would provide for an effective and efficient use of an under-utilised site that is highly accessible and well-served by public transport.

8.0 Material Contravention Statement

8.1. The applicant has submitted a Material Contravention Statement, as provided for under Section 8(1)(iv)(II) of the Act of 2016. The applicant asserts that the proposed development would materially contravene the Development Plan with respect to the proposed building height, unit mix and unit size and would materially contravene the Local Area Plan with respect to the proposed building height, density and unit numbers (core strategy). Within this statement the applicant sets out their rationale to justify a grant of planning permission, including:

- the proposed development comprises an increase of two storeys and 66 units when compared with the previous permission granted on site (ABP ref. 304838-19);
- permissions have been granted for large-scale developments on the adjoining Nissan site (DCC ref. 3228/20) and on the opposite site along the Naas Road (ABP ref. 307804-20 / DCC ref. 4238/19);
- the site is capable of accommodating additional building heights without compromising residential amenities and the subject proposals would provide for a well-considered redevelopment of a vacant brownfield urban infill site that is close to public transport services and local amenities;
- the proposed building heights and density are permissible having regard to national policy, including the NPF, SPPRs of the Urban Development and Building Heights, Guidelines for Planning Authorities (2018) (hereinafter the 'Building Heights Guidelines'), which mandate for increased building heights in suitable locations to provide an appropriate density for infill sites that are well serviced by public transport services and local amenities;

- the proposed unit numbers (core strategy) are permissible having regard to national policy, including the National Planning Framework providing for high-density residential development in existing urban areas adjacent to high-quality public transport facilities;
- the proposed unit mix and unit size are permissible having regard to national policy, including the SPPRs of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020) (hereinafter the 'New Apartment Guidelines'), which take precedence over any guidance issued by the relevant Development Plan.

8.2. In conclusion, the applicant asserts that the Board may grant permission for the subject strategic housing development having regard to the provisions under subsection 37(2)(b)(iii) of the Planning and Development Act 2000, as amended (hereinafter 'the Act of 2000').

9.0 Observers' Submission

9.1. One submission was received within the statutory period and this was from two parties whose address is given as a location approximately 78km to the north of the site in Dundalk, County Louth. The issues raised in this submission requesting that the Board refuse permission for the proposed development, can be summarised as follows:

Section 28 Guidelines

- the Building Heights Guidelines and the New Apartment Guidelines, including their respective SPPRs, are unconstitutional, and the Board should refuse to consider and cannot grant permission for the proposed development if relying on these guidelines;
- the density, housing mix, public open space, car parking, childcare provision, architectural conservation area (ACA), policy objectives SS02a and PM17, building height and the visual impact of the proposed development would materially contravene the provisions of the Development Plan and the Local Area Plan and cannot be justified under section 37(2) of the Act of 2000 or section 28 guidelines;

- the proposed development and documentation submitted does not comply with the provisions of the Building Heights Guidelines, including SPPRs 1, 2 and 3, and is not in compliance with BRE Guidelines;
- the proposed development is not of strategic or national importance;
- the application, including documentation, does not comply with planning regulatory requirements, including the EIA Directive;
- the application fails to prove that the subject proposed development would be sufficiently served with respect to public transport, drainage, water services and flood risk;
- if the proposed development is considered to not comply with objectives of the Development Plan, the Local Area Plan, the Masterplan and / or Urban Design Framework, it would be in unlawful breach of the Strategic Environmental Assessment (SEA) Directive;

Screening for Environmental Impact Assessment (EIA)

- even though the proposed development is subthreshold for the purposes of EIA, it should be subject of EIA;
- the public has not been fully able to participate as they are not privy to the report of the Chief Executive or the scoping exercise carried out for the EIA process or if submissions from consultees have been considered in the EIA Report (EIAR);
- the application, including the Planning Report, EIA screening and the Construction and Waste Management Plans are insufficient with respect to risk to human health, pollution, nuisances, collision-risk for birds and bats, and the general impact on biodiversity and human health arising from the proposed development;
- certain matters should not be left over for agreement following the decision or determination with the assigned development contractor, due to concerns regarding public participation, which would be contrary to the requirements of the EIA Directive;

- the Board lacks the expertise or access to same in order to examine the EIA Screening Report;
- the EIA Screening Report submitted does not comply with statutory requirements and is inadequate, as it fails to assess the impact of the increased population on local services and as it is not based on a complete development description, omitting details of the construction phase;
- the EIAR submitted fails to provide a comprehensive cumulative impact assessment of the proposed development, including other strategic housing developments;

Screening for Appropriate Assessment (AA)

- the information submitted by the applicant contains lacunae and is not based on appropriate scientific expertise and the AA Screening Report does not have sufficient or adequate information for a complete AA screening to be carried out;
- there is an absence of reasoning provided in the AA Screening Report with reference to scientific information in arriving at the conclusions and statements made;
- the AA Screening is flawed as it fails to account for the construction phase aspect of the proposed development;
- insufficient surveys have been carried out for the AA screening, including with respect to bird collision/flight risks and the impacts to protected bird species have not been identified and considered in the AA Screening Report;
- the AA Screening Report submitted has regard to mitigation measures and has no regard or inadequate regard for the in-combination impacts of the proposed development on protected sites, including other developments;

Build-to-Rent Model

- reference to a quotation from an appendix (b) summary of the Chief Executive's report from Dublin City Council for a build-to-rent apartment development under ABP ref. 309627-21 - the build-to-rent model is not acceptable, as it does not provide affordable homes, it is a form of foreign

investment, it requires legislative change to regulate tenure and rent, and concerns were expressed regarding an overconcentration of this housing and profiteering.

10.0 Planning Authority Submission

10.1. In accordance with the provisions set out under subsection 8(5) of the Act of 2016, the Planning Authority submitted the report of its Chief Executive Officer in relation to the proposal, summarising the external consultee submissions received and providing planning and technical assessments of the proposed development. The Planning Authority's views can be summarised as follows:

Principle and Housing Tenure

- the asserted consistency with objectives of the Development Plan and the Local Area Plan, as well as the applicant's response to An Bord Pleanála's opinion, Material Contravention Statement, the results of the applicant's microclimate impact assessment, the emerging development context and differences between this scheme and the previously permitted scheme (ABP ref. 304383-19) are noted;
- the proposal is welcomed and considered compatible with the zoning objectives for the area;
- having regard to the planning history of the site and its location within the Naas Road Lands Local Area Plan 2013 and its proximity to the city centre, Luas stops and a number of employment centres, it is considered suitable for a build-to-rent scheme;
- build-to-rent housing would provide a viable housing solution and a greater choice of housing;

Design, Density and Height

- a good design response is provided for cognisant of the strategic importance of the Naas Road route and providing a strong urban edge and various public realm improvements;
- the mix of uses would encourage active frontage and focal points;

- the materials and finishes would be of a high quality;
- cyclist and pedestrian permeability in line with green route objectives of the Local Area Plan have been provided for;
- the scheme is designed mindful of the need for adequate light to be provided;
- the density proposed would be acceptable in this location based on Development Plan policy provisions (SC13), proximity to well serviced public transport and the permitted developments on the Nissan (DCC ref. 4238/19) and Royal Liver Insurance Retail Park sites (ABP ref. 307804-20);
- having regard to the scale and width of the Naas Road and the heights permitted in the neighbouring Nissan and Royal Liver Insurance Retail Park sites, buildings of up to ten storeys would be acceptable onto the Naas Road frontage and the Carriglea industrial estate access road;
- the additional height of the inner three finger blocks would impact on lighting to the communal open space and the lower-level apartments;
- the density, height and design of the proposed development would help to improve the visual amenities of the area and is a suitable response given the design guidance contained in the Local Area Plan;
- the proposed development would provide for the removal of low-quality and low-intensity commercial units and would provide structures of strong architectural merit so as to create a better sense of place at this location;
- the proposed development would enhance the urban form in this location and would assist in the creation of a more lively and active streetscape along the Naas Road with strong passive surveillance of this route;

Residential Amenities and Development Standards

- the residential support services and non-residential uses within the proposed development and the applicant's housing quality assessment are noted;
- when compared with the previous permitted proposals on site, the internal amendments to the floor play layouts would be acceptable;
- the majority of rooms that would fall below the average daylight factor (ADF) targets contained within the BRE 209 guide, would be on the lower floors;

- concerns arise with respect to the number of apartments falling below the 2% ADF target value set for kitchen/living/dining rooms and the use of a 1.5% ADF target value would not be acceptable in addressing these concerns based on the Atlantic Diamond Limited High Court case (2020 No.712 JR);
- the finger block elements would step down towards the rear from ten to five storeys. There are concerns regarding the two additional storeys to these blocks when compared with the previous permitted proposals (ABP ref. 304383-19) and their impact on lighting to lower-level apartments;
- the finger block elements B and C would have overbearing impacts on the adjoining inner courtyard communal spaces;
- the three finger block elements should be reduced via condition to be no more than eight storeys, as per the previous permission;
- the applicant's asserted compensatory design measures to address shortfalls in daylight standards are noted;
- the unit mix, storage areas and floor to ceiling heights comply with the standards;
- concerns arise regarding the number of single aspect units, in particular, north-facing single aspect units in the scheme overall, and it is disappointing that the applicant used the lower dual aspect proportion standard (33%) given that this is a large brownfield site and its scope to provide dual aspect units;
- the proposed development provides for a better ratio of dual aspect on the two top floors, with single-aspect units provided favourable orientation or projecting bay-window features;
- based on an assessment of the two proposed additional floors at eighth and ninth-floor levels, which would contain 51% and 62% dual aspect units, and given the variety and quantum of compensatory communal facilities, the proposed unit configuration and orientation would be acceptable and complies with the Guidelines;
- to address noise impacts for the proposed apartments along the Naas Road, additional compensatory measures would be provided in lieu of balconies,

with bay window features offering an additional 6sq.m of living space, as well as communal roof terraces at level 8;

- the proposed single-storey pavilion to be used as a café / restaurant with an outdoor seating area situated between Blocks D and E, should be omitted due to its impact on the residential amenity of adjacent ground-floor apartments arising from overlooking, noise and the loss of an important area of communal open space;
- the eighth-floor communal terrace areas would impact on those apartments with adjoining terraces via noise impacts, loss of privacy and as the 1.5m-high hedges indicated between the communal and private amenity areas would result in very dark private amenity areas with a poor quality residential amenity;
- the communal spaces adjoining private terraces on the eighth-floor level northern elevation, particularly those serving apartments 8A37, 8A24, 8A23, 8A12, 8A11, 8A04 and 8A03 would be very exposed in terms of wind impacts and would feature poor aspect with only limited afternoon sun;

Neighbouring Residential Amenities

- there are no existing residential properties in the vicinity of the proposed development, although a number are planned and the Local Area Plan envisages redevelopment of the low-density commercial lands in the vicinity;
- proposals have been design around the potential for the future redevelopment of the lands to the south (Nissan site);

Conclusion, Recommendation and Statement

- the proposed strategic housing development would comply with the proper planning and sustainable development of the area and consideration should be given to a grant of permission;
- the Planning Authority recommend the attachment of 30 conditions, including those referenced above and the following conditions of note:

Condition 4(a) – reduced heights by two storeys to the inner-finger blocks C and D and the resultant omission of 28 apartments;

Condition 4(b) – the single-storey café / restaurant pavilion building shall be omitted;

Condition 6 – details of commercial uses, including signage;

Condition 10 – vertical screens to adjoining balconies;

Condition 12 – details of proposals to address control of fumes and odours from the proposed café / restaurant units;

Condition 17(iii) – revised cycle parking details, including increased staff and visitor spaces, non-standard spaces, secure compounds and shower and changing facilities;

Condition 17(iv) – omit the perpendicular car parking space adjacent to block F;

Condition 17(vi) – provide a minimum of 20% electric-vehicle charging spaces, 50% for car-share spaces and 100% with necessary ducting;

Condition 19 – revised site plan for the management of surface water drainage;

Condition 22 – noise levels at operational stage;

Condition 29 – written approval from ESB networks to divert or bury underground high-voltage lines running over the site.

10.2. Inter-Department Reports

- Drainage Division – no objection, subject to conditions, including a revised detailed site plan for surface water drainage addressing inconsistencies and revised surface water drainage and flood mitigation measures to address strategic flood risk assessment and complete surface water drainage calculations;
- Air Quality Monitoring and Noise Control Unit – should permission be granted, conditions are recommended to be attached, including construction and operation phases noise and air quality control requirements;
- Housing & Community Services – applicant’s representative has engaged with the Housing Department and is aware of their Part V obligations;

- Parks, Biodiversity and Landscape Services – no objections, subject to conditions relating to public art, landscape implementation and public open space management;
- Transportation Planning Division – no objection in principle, subject to conditions recommended addressing cycle parking provision, submission of a construction environmental management plan and a construction traffic management plan with construction phase mobility strategy, omitted parking space and layout at block F, submission of a mobility management plan with car and cycle parking management plans, electric-vehicle charging and ducting, agreement of works along Naas Road, road repair costs and adherence to a code of practice;
- Environment and Transportation Section – demolition and operational waste collection requirements, site manager and waste log details requested. Situations where waste facility permits are required are listed and soil, invasive species and asbestos surveys are requested;
- Planning and Property Development Department – a bond condition and a section 48 development contribution would apply.

10.3. Elected Members

10.3.1. The proposed development was presented to the Elected Members from the South Central Area Committee of the Local Authority on the 19th day of January, 2022. In accordance with subsection 5(a)(iii) of the Act of 2016, the comments of the Elected Members at that meeting have been outlined as part of the Chief Executive's Report and these can be summarised as follows:

- concerns regarding the concentration of build-to-rent units in the area and the long term impacts on affordable housing, given the financial gain for developers of such schemes, the lack of suitability for families, future management difficulties, the transient nature of occupants and the potential for one private landlord or vulture fund to buy the apartments;
- additional housing is welcomed, but not at the expense of good quality accommodation with a suitable mix and tenancy types;

- concerns expressed regarding the potential for the creation of a wind corridor along with other developments, as well as the cumulative impacts on the Naas Road and public transport infrastructure arising from approximately 10,000 additional units and 3,000 additional cars;
- development contributions should be for local amenities and community infrastructure;
- question whether there would be sufficient school places available in the area based on the increase in developments;
- the strategic housing development legislation has not addressed the housing crisis and this has impeded Local Authorities in their functions.

11.0 Prescribed Bodies

11.1. The following comments were received from prescribed bodies:

Irish Water

- water – a new connection would be feasible without infrastructure upgrade. A 200mm-diameter connection pipe with installed bulk meter and associated telemetry system should be installed instead of the proposed 4-inch AC connection to the 9-inch main on Naas Road;
- wastewater – a new connection would be feasible without infrastructure upgrade. The storm water connection needs to be made to a storm water network that does not discharge to an Irish Water combined / foul sewer;
- the applicant is entirely responsible for the design and construction of all water and / or wastewater infrastructure within the development redline boundary;
- conditions are recommended, including those relating to connection and diversion agreements, stormwater connection only to the storm water network and compliance with Irish Water's codes and practices.

Transport Infrastructure Ireland (TII)

- conditions are recommended, including those relating to an access and maintenance agreement with TII, limitation of deliveries interfering with Luas

operations, agreements with TII, Luas operators and the develop with respect to developer responsibilities, compliance of works with TII 'Code of Engineering Practice for Works on, near, or adjacent the Luas light-rail system' and the submission of construction traffic management proposals to address Luas infrastructure.

- 11.2. The applicant states that they notified the National Transport Authority and Dublin City Childcare Committee. An Bord Pleanála did not receive a response from these bodies within the prescribed period.

12.0 Assessment

12.1. Introduction

- 12.1.1. In August 2019, planning permission was granted by the Board for a strategic housing development comprising the demolition of all buildings on site and the construction of 479 build-to-rent apartments and seven ground-floor commercial units (ABP ref.304383-19). The key difference between the subject proposed development and the previously permitted development comprises the additional two storeys primarily providing for 66 further build-to-rent apartments. In their submission, the Planning Authority state that their assessment focuses on the proposed addition of the two extra floors and the impacts that this may have on the overall scheme. I note that it is not a requirement for this assessment to consider if this proposed development would provide for an improved form of development on site when compared with the development previously permitted. The proposed strategic housing development must be considered with respect to current planning policy and its existing site context, including any revised planning context.
- 12.1.2. Since the previous permission was granted I note that the New Apartment Guidelines have been updated, the Government's Housing for All – A New Housing Plan for Ireland (2021) has been released and legislative changes with respect to Part V of the Act of 2000 have occurred. The planning context for the site has also altered following grants of permission for large-scale redevelopments of neighbouring sites, including the adjoining Nissan site (DCC ref. 3228/20), Carriglea

industrial estate phase 2 site (ABP ref. 311606-21) and the Royal Liver Insurance Retail Park site on the opposite side of the Naas Road (ABP ref.307804-20).

12.1.3. This assessment considers the proposed development in the context of statutory plans for the area, as well as national policy, regional policy and relevant guidelines, including section 28 guidelines. From the outset I note that the matter raised by the observers querying the constitutionality of the Building Heights Guidelines and the New Apartment Guidelines is not a matter that can be addressed as part of my assessment. Having regard to the documentation on file, including the application submitted, the contents of the Chief Executive's Report received from the Planning Authority, issues raised in the observations on file, the planning and environmental context for the site, and my visit to the site and its environs, I am satisfied that the substantive planning issues arising for this assessment can be addressed under the following headings:

- Development Principles;
- Urban Design;
- Impacts on Local Amenities;
- Residential Amenities and Development Standards;
- Traffic and Transport;
- Services and Flood Risk;
- Material Contraventions.

12.2. Development Principles

Strategic Housing

12.2.1. The proposed development seeks permission to demolish and remove the existing buildings on site used for a variety of commercial uses and measuring a stated 8,660sq.m. These buildings would be removed and they would not form useable floor space within the development. Accordingly, I am satisfied that this element of the development would involve enabling works for the subject development and would not form 'other uses' for the purposes of considering whether or not the

development conforms to the legislative definition of a strategic housing development.

12.2.2. The proposed development would comprise 3,812sq.m of non-residential floor space, representing a maximum of 6.7% of the overall development floor area (56,681sq.m) and not exceeding the 15% or 4,500sq.m statutory limitations, all located on lands with a zoning objective 'Z14'. The development would also feature 2,532sq.m of internal communal spaces, which would only be ancillary to the residential development, and therefore would conform to a non-residential use. The applicant states that the car, motorcycle and bicycle parking provision at basement level (8,838sq.m) would only serve the residential units, therefore, this basement floor area would form ancillary residential space. Refuse collection areas for the commercial units, including general waste and recycling bins, are identified in the applicant's Urban Design report as being located adjacent to the respective commercial units ensuring easy access, with the basement refuse collection areas for residents only. Notwithstanding this, should the refuse and plant areas at basement level be considered to form non-residential floor space, I note that they would only result in an additional approximate floor area of 425sq.m (0.7% of the overall development floor area) bringing the non-residential floor area to 4,237sq.m or 7.4% of the overall development floor area. Consequently, I am satisfied that the proposed development comes within the definition of a 'strategic housing development', as set out in section 3 of the Act of 2016.

Land-Use Zoning Objectives

12.2.3. The application site is assigned a land-use zoning 'Z14' within the Dublin City Development Plan 2016-2022 for 'Strategic Development and Regeneration Areas' (SDRAs), with a stated objective to seek the social, economic and physical development and/or rejuvenation of such areas with a mix of uses, of which residential and 'Z6' (enterprise and employment) would be the predominant uses. The commercial and light industrial areas adjoining the site to the east, west and south, including part of the Drimnagh Castle Post-Primary School playing fields, are also zoned 'Z14 – SDRAs'. Lands to the north of the site on the opposite side of the Naas Road are assigned a land-use zoning objective 'Z6' to provide for the creation and protection of enterprise, and to facilitate opportunities for employment creation.

- 12.2.4. The Development Plan states that Z14 lands have the capacity for a substantial amount of development and that a Local Area Plan was adopted in 2013 for the Naas Road Z14-zoned lands. Within this 'Naas Road Lands Local Area Plan' the site is strategically allocated for commercial uses to the front and residential uses to the rear based on map 4.1. The Local Area Plan stipulates that this land use strategy map sets out the general shape of the land use mix and it should be read as an indicative land use mix. I note that the subject proposals would primarily feature a range of commercial uses opening onto the front of the site at street-level with residential units on the upper levels. Under the proposals the rear of the site would primarily feature residential uses and a café / restaurant pavilion unit, which I specifically address below under section 12.4.
- 12.2.5. The proposed uses, including residential uses, childcare facility, medical and related consultants' rooms, offices, open space, restaurant and neighbourhood shops are permitted in principle on these lands, based on the land-use zoning objectives contained in the Development Plan and warehouse retail units would be 'open for consideration'. Given the general layout of the development, the nature of the uses proposed, the terms of the Local Area Plan and the uses allowed for on these lands, I am satisfied that the proposed development would generally comply with the indicative land-use mix objectives of the Local Area Plan and the land-use zoning objectives of the Development Plan, and the proposed development would not adversely affect the amenities of premises in the vicinity and would not prejudice the proper planning and sustainable development of the area. I am satisfied that the development would provide for a complementary mix of uses on this site, compliant with the overall vision for the lands, as set out within the Development Plan and the Local Area Plan and it would not materially contravene the Development Plan or Local Area Plan in relation to the zoning or land use objectives.

Demolition Works

- 12.2.6. Details of the buildings to be demolished are included in the applicant's existing site plan drawing and the existing elevations drawings. No parties have specifically objected to the removal of these buildings, which would enable the proposed development. The Planning Authority consider the removal of the low-quality, low-intensity commercial units on site to provide structures of stronger architectural merit to be a positive in creating a better sense of place at this location. The Planning

Authority also outline a number of conditions with respect to the construction phase of the project. The buildings proposed to be demolished are not assigned a specific conservation status and in providing for sustainable redevelopment of the site at the scale proposed, their removal would not be contrary to planning objectives.

Consequently, I am satisfied that there are no planning provisions restricting the principle of this part of the proposed works. As part of their EIAR and Outline Construction and Demolition Waste Management Plan, the applicant has addressed the means and measures to be employed in removing these buildings, and a standard condition can be attached in the event of a permission to require a finalised management plan for this element of the proposed development.

Build-to-Rent

- 12.2.7. The additional supply of housing that would be provided by the proposed development is welcomed by the Elected Members representing the Planning Authority, although they also assert that an alternative housing tenure and a more long-term, family-friendly housing typology should be provided. Observers refer to the comments from Elected Representatives under ABP ref. 309627-21, detailing their broad concerns with respect to the build-to-rent housing model, including the inability to provide affordable homes, investment and legislative change required, and the overconcentration of this type of housing. The Planning Authority submission asserts that build-to-rent housing would provide a viable housing solution and a greater choice of housing.
- 12.2.8. Rebuilding Ireland – Action Plan for Housing and Homelessness 2016 identifies five pillars for action, including pillar 3 increasing the output of private housing to meet demand at affordable prices and pillar 4 to improve the rental sector. The key objective of pillar 4 is addressing obstacles to greater private rented sector delivery and improving the supply of units at affordable rents. Key actions of this pillar include encouraging build-to-rent residential schemes with additional amenities required to be provided for residents under the terms of the New Apartment Guidelines. Within section 12.4 below I consider the adequacy of the additional amenities intended to serve the future residents of the subject scheme.
- 12.2.9. Section 16.10.1 of the Development Plan refers to areas within the city where build-to-let developments with a unit mix differing from the normal standards would be

possible. These areas include locations within 500m (walking distance) of centres of employment or adjoining major employment sites. The Development Plan identifies 'centres of employment' in figure W of the Housing Strategy forming Appendix 2A to the Development Plan, while also referring to their associated Electoral Divisions. The Development Plan does not explicitly identify 'major employment sites' where the revised unit mix provision would be acceptable. Furthermore, the Development Plan does not specifically place a restriction on build-to-rent in other parts of the city. Consequently, I am satisfied that the Development Plan does not restrict the principle of developing the subject site for build-to-rent apartments. The Development Plan sets out several alternative unit mix standards for 'build-to-let' schemes, which I address further below under section 12.4.

12.2.10. The Development Plan does require applicants to submit evidence that there is not an overconcentration of build-to-rent apartments within an area, including a map showing similar facilities within 0.25km of a proposal. The applicant did not specifically address this within their application. As part of the application the applicant submitted observations from property consultants considering the commercial feasibility of the proposals, including the build-to-rent element, but this did not refer to similar housing developments in the immediate area, nor did it include a map of such facilities.

12.2.11. In this regard, the immediate area to the application site is dominated by commercial properties and education grounds with the nearest apartments within Lansdowne Gate, 250m to the southeast of the site. Since the previous permission was approved for a build-to-rent apartment development scheme on this site, within 0.25km of the application site there have been permissions for two other developments featuring build-to-rent apartments, including 992 build-to-rent apartments on the Royal Liver Insurance Retail Park site on the opposite side of the Naas Road and 1,123 build-to-rent apartments on the adjoining Nissan site to the south. These apartments do not presently exist and I am not aware of other specific build-to-rent apartments either permitted or existing within 0.25km of the application site. Should all the permitted build-to-rent apartments be constructed, it is unclear as to what would be considered an overconcentration based on the Development Plan provisions. The proposed development would only potentially provide for 66 additional build-to-rent apartments or a 2.5% increase on top of the 2,594 build-to-

rent apartments already permitted either on the application site or within 0.25km of the application site. At present there is not an overconcentration of build-to-rent apartments in this area and the Planning Authority has not asserted that the proposed development would lead to an overconcentration of this housing tenure in this area, including by reference to any provisions within their Development Plan. There is very limited supply of any housing in this area given the historical use of the immediate and wider area primarily for commercial and industrial uses.

12.2.12. The applicant has also submitted a proposed covenant or legal agreement with their application, in compliance with SPPR 7(a) of the New Apartment Guidelines, and the proposed development includes the provision of communal residential facilities such as a concierge, a residents' lounge, shared winter gardens, shared work space, meeting rooms, events spaces and external residential courtyards, forming the associated resident support facilities to accompany the 'build-to-rent' development.

12.2.13. There is clear policy supporting the provision of this type of housing, which does not appear to be excessively concentrated in this location at present and I am satisfied that the proposals, potentially providing an additional 66 build-to-rent apartments, would add to the limited current housing options in this area and would not substantively add to this type of housing in future in this area. In the event of a grant of planning permission for the development, conditions can be attached to require the submission of a finalised covenant or legal agreement confirming the housing tenure, as well as ownership details and management structures.

Social Housing

12.2.14. Given the number of units proposed and the size of the site, the applicant is required to comply with the provisions of Part V of the Act of 2000, which aims to ensure an adequate supply of housing for all sectors of the existing and future population. Part V Guidelines require a planning application to be accompanied by detailed proposals in order to comply with Part V housing requirements, and the Housing Department should be notified of the application.

12.2.15. Appendix 2A of the Development Plan addresses the supply of social housing in the city and requires 10% of units on all residential zoned land to be reserved for the purpose of social housing. The applicant has submitted Part V proposals that comprise the provision of 54 one-bedroom apartments (10%) to Dublin City Council,

from ground to first-floor level of the development and comprising all of the ground-floor apartments fronting onto Carriglea industrial estate access road and within the rear standalone block F. The Housing Division of the Planning Authority has stated that the applicant's representative has engaged with the Planning Authority on this matter and is aware of their obligations. Part V of the Act of 2000 was amended by the Affordable Housing Act 2021 approximately four months prior to the lodgement of this strategic housing development application. Correspondence from a law firm submitted with the application asserts that the applicant is the registered owner of the site and that they acquired the subject site on the 26th day of October, 2016. This has not been contested and I am not aware of any details contradicting this. Based on details contained in the application, it would appear that the applicant controlled the subject lands (excluding the section crossing Carriglea industrial estate road) after September 2015 and prior to August 2021. Therefore, a 10% Part V requirement would appear to continue to apply. I am satisfied that Part V requirements can be finalised with the Planning Authority by means of a condition, should the Board decide to grant permission for the proposed development.

12.2.16. In conclusion, I am satisfied that the details provided accord with the requirements set out within the relevant Guidelines, the proposed Part V provision is in accordance with the statutory requirements and the overall social housing provision would help to provide a supply of housing for all sectors of the existing and future population, as well as facilitate the development of a strong, vibrant and mixed-tenure community in this location. Based on the section 28 Guidelines addressing the regulation of commercial institutional investment in housing, there is not a requirement to regulate investment in the proposed units, as apartments are exempt from a restrictive ownership condition.

Residential Density and Unit Numbers / Core Strategy

12.2.17. The proposed development comprising 545 apartments on a net site area of 1.88ha, would result in a density of 290 units per hectare. When compared with residential densities in the wider urban environment, such densities would be clearly at the higher end. The subject development would have a plot ratio of 3.0 and a site coverage of 39.5%, which is within the 1.0 to 3.0 indicative plot ratio and the 50% site coverage normally allowed for in the Local Area Plan and in the Development Plan on 'Z14' lands.

12.2.18. The Planning Authority consider the density of the proposed development to be acceptable in the context of the site proximity to well serviced public transport and the density of approved developments on the Nissan site (DCC ref. 4238/19) and the Royal Liver Insurance Retail Park site (ABP ref. 307804-20), as well as the planning provisions of the Development Plan, including policy SC13 referring to the promotion of sustainable densities. The Planning Authority refer to the density, alongside the proposed building heights and design, as helping to improve the visual amenities of the area. The observers' submission refers to the density, alongside a host of other elements of the proposed development, as materially contravening the provisions of the Development Plan and the Local Area Plan, as well as the application failing to prove that the subject proposed development would be sufficiently served by public transport. The applicant considers the density of the proposed development to materially contravene the density standards within the Local Area Plan. However, they consider the density to be appropriate based on the site context within an emerging area for the creation of high-quality and high-density developments, the proposals consistency with the density of surrounding recently approved developments, the site proximity to various services, including public transport links, existing local facilities, education and employment centres, and the capacity to create the critical mass to develop compact urban neighbourhoods that contribute to the economic, social and transport infrastructure. The applicant also considers the proposals to materially contravene the unit numbers allowed for under the Local Area Plan, as well as the core strategy housing allocation for this area contained within the Development Plan.

12.2.19. The Local Area Plan refers to the housing stock in the area in 2013 as being comprised of lower-density housing dotted throughout the plan area and higher-density apartment schemes located in the south-east of the plan area, including Lansdowne Gate, which the applicant states to feature a density of 129 units per hectare. There are numerous references to density within the Local Area Plan, including policy LUS03 referring to the development of a new sustainable neighbourhood, inclusive of residential development at sustainable densities, underpinned by quality social infrastructure all within a high-quality public domain. Movement and access policy MA4 seeks to ensure that development in the Local Area Plan lands is cognisant of their proximity to the city centre and existing and

future public transport infrastructure, and that residential densities, access points, layouts are compatible with this context. Local Area Plan policy H3 requires housing at sustainable densities, in order to create the critical mass to support existing and proposed infrastructure, as well as services in the plan area and its environs. The Local Area Plan sets out that 'new housing will be developed in a medium and high-density format as is appropriate to this location, and it should accommodate a diversity of housing tenures and types, helping to redefine the character of the area'. It is stated that a net density of between 45 to 50 residential dwellings per hectare will be sought in the Local Area Plan area, which amounts to approximately 100 hectares, and a variety of dwelling typologies will be encouraged, including apartments, duplexes and townhouses.

12.2.20. The Local Area Plan includes four key development sites and sets out individual development parameters for each of these sites. While the subject site does not form part of any of these four key development sites, the Local Area Plan only provides limited reference to densities achievable on these sites, including reference to 'sustainable densities' being sought for three of the sites and a net residential density of approximately 45 to 50 units per hectare being sought for the Muirfield Drive/Naas Road site adjacent to the east of the application site. The Local Area Plan also includes housing objective HO1 to facilitate the sustainable development of approximately 2,100 additional residential units in the plan area, but it does not outline how these additional residential units are to be distributed throughout the Local Area Plan area, including the four key development sites. The timeframe for the delivery of the 2,100 residential units (200,000sq.m) is stated to be over 15 to 20 years, while an approximate ten-year medium-term housing quantum amounting to 62.5% of the overall anticipated residential floor space is set out as part of the table on page 22 of the Local Area Plan. This would equate to the delivery of approximately 1,313 residential units in the Local Area Plan lands by 2023, when the proposed development would be under construction, if permitted, based on the 2024 opening year stated by the applicant in their Traffic Impact Assessment.

12.2.21. While a specific residential density has not been set for the application site, I am satisfied that based on the provisions of the Local Area Plan it must be inferred that the general standard density for the site would be in the region of 45 to 50 units per hectare and that the subject proposals, as presented, would be substantially in

excess of this standard. Furthermore, as highlighted by the applicant there are extant permissions for well in excess of 2,100 residential units in the Local Area Plan area, including 1,123 units on the adjoining Nissan site (DCC ref. 3228/20), 393 units on the Carriglea industrial estate site (DCC ref. 4244/15 and ABP ref. 311606-21) and 1,195 units on the Royal Liver Insurance Retail Park site (ABP ref.307804-20). While only an approximate target number of residential units for the Local Area Plan is stated, I am satisfied that the additional proposed 545 residential units coupled with the existing permitted residential units could reasonably be considered to materially exceed the anticipated 2023 housing target (1,313) and the long-term housing target 2,100 units. Consequently, I am satisfied that the proposed development could reasonably be considered to materially contravene the Local Area Plan with respect to residential density and unit numbers. I refer the Board to section 12.8 hereunder in relation to the issue of material contravention.

12.2.22. The Local Area Plan lands overlap the SDRA 5 Naas Road area identified in the Development Plan, which are also estimated in the core strategy Development Plan to accommodate 2,100 residential units. Since adoption of the Development Plan, the applicant refers to over 3,000 residential units being permitted in this area, and, as such, the proposed development could also be considered to materially contravene this core strategy provision of the Development Plan.

12.2.23. The Development Plan sets out that 'higher densities' will be promoted in areas such as SDRAs and within the catchment of high capacity public transport. The application site is also identified in the Development Plan as forming part of key district centre (KDC) 6 Naas Road. Key development principles for KDCs, include the establishment of significant residential population bases with diversity in unit types and tenures capable of establishing long-term integrated communities. With regard to density, the KDC development principle, is to 'ensure the establishment of high-density developments capable of sustaining quality public transport systems and supporting local services and activities'.

12.2.24. Section 16.4 of the Development Plan states that proposals for higher densities must demonstrate how the proposals contribute to place-making and the identity of an area, as well as the provision of community facilities and/or social infrastructure to facilitate the creation of sustainable neighbourhoods. These matters are further discussed below with respect to urban design and the amenities of the area and I am

satisfied that the proposed development would make a positive contribution in this regard.

- 12.2.25. The Development Plan does not define 'higher densities', nor does it set out a maximum limitation for residential densities. The Development Plan refers to the provisions set out in the Guidelines on Sustainable Residential Development in Urban Areas (2009), which I discuss further below, and which refer to locations such as the subject application site along a public transport corridor being suitable for minimum net densities of 50 dwellings per hectare. Consequently, definitive densities for the application site area are not clearly specified in the Development Plan and given this level of ambiguity it cannot be reasonably considered that development at the density proposed on the application site could be reasonably considered to be materially contravening densities within the Development Plan.
- 12.2.26. In terms of the national policy context, the NPF promotes the principle of 'compact growth' at appropriate locations, facilitated through well-designed higher-density development. Of relevance are NPOs 13, 33 and 35 of the NPF, which prioritise the provision of new homes at increased densities through a range of measures including, amongst others, brownfield development schemes and increased building heights. The NPF signals a shift in Government policy towards securing more compact and sustainable urban development within existing urban envelopes. It is recognised that a significant and sustained increase in housing output and apartment type development is necessary.
- 12.2.27. The RSES for the region further supports consolidated growth and higher densities, as per RPO 5.4, which states that future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards. In relation to Section 28 guidance, the Sustainable Residential Development Guidelines 2009, the Building Heights Guidelines and the New Apartments Guidelines all provide further guidance in relation to appropriate densities and they each support increases in densities at appropriate locations in order to ensure the efficient use of zoned and serviced land. All national planning policy indicates that increased densities and a more compact urban form is required within urban areas, subject to high qualitative standards being achieved in relation to design and layout of housing.

12.2.28. The Guidelines on Sustainable Residential Development in Urban Areas (2009) state that for sites located within a public transport corridor, it is recognised that to maximise the return on this investment, it is important that land use planning underpins the efficiency of public transport services by sustainable settlement patterns, including higher densities. The Guidelines state that minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, which are locations within 500 metres walking distance of a bus stop or within 1km of a light rail stop or a rail station. The application site is within 10m and 30m of bus stops serving three public routes and within 250m and 450m from the Bluebell and Kylemore Luas light rail stops. In identifying appropriate locations for increased densities, including public transport corridors, with respect to brownfield sites, such as the application site, the Guidelines present opportunities for their redevelopment to higher densities, subject to safeguards, including appropriate building heights, addressing overlooking overshadowing and overlooking, the provision of resident amenities, or safeguards and design requirements in accordance with local area plans.

12.2.29. The Building Heights Guidelines state that increased building height and density will have a critical role to play in addressing the delivery of more compact growth in urban areas and should not only be facilitated, but actively sought out and brought forward by our planning processes, in particular by the Local Authority and An Bord Pleanála. The Guidelines caution that due regard must be given to the locational context, to the availability of public transport services and to the availability of other associated infrastructure required to underpin sustainable residential communities. Section 3.2 of the Building Height Guidelines refers to the need for a proposed development to be 'well served by public transport with high capacity, frequent service and good links to other modes of public transport'.

12.2.30. Observers to the application refer to an insufficient provision of public transport in this area to serve the proposed development. In considering the general provision of public transport available in this area, I would note that capacity is intrinsically linked to frequency. Redline Luas services operating between Saggart /Tallaght and Connolly Station / Dublin Docklands, all serving the Kylemore and Bluebell Luas stops, commence operation at 05:34 hours and finish at 00:17 hours Monday through Friday and with a 30-minute later service start on Saturdays. On Sundays

and Bank Holidays redline Luas services operate between 07:04 hours and 23:18 hours. Services operate every three to five minutes during peak hours and 12 to 15-minutes during off-peak hours. Peak times occur Monday to Friday between 07:00 to 10:00 morning hours and 16:00 to 19:00 evening peak hours and 11:00 to 20:00 hours Saturdays, Sundays and Bank Holidays. Based on the current capacity of 291 passengers on each redline Luas service, this would allow for transit in both directions of 3,492 to 4,365 passengers per peak hour and 1,164 to 1,455 passengers per off-peak hour through the neighbouring Kylemore and Bluebell stops.

- 12.2.31. Dublin bus stops 1955 and 4406 fronting the site along the Naas Road, are served by Dublin bus routes 13, 68 and 69. The nearest stops for Dublin bus route 151, which the applicant refers to in their Traffic Impact Assessment, is located on the Long Mile Road, a 750m walk from the application site.
- 12.2.32. Dublin Bus route 13 operates along the Naas Road fronting the site with five to six services during weekday peak hours 07:00 to 18:00 hours, with reduced services outside of these hours, including four services per hour on Saturdays between 09:00 and 23:00 hours and including four services per hour on Sundays between 11:00 and 23:00 hours. This would be supplemented by two additional services generally every hour between 06:15 and 23:30 hours weekdays and Saturdays, via Dublin bus route 68 and 69 services. These public transport services connect with services and facilities within the city centre and to the west of the M50 motorway. Each of these Dublin bus routes operate with double decker buses, which have capacity for approximately 85 passengers. Consequently, these buses could potentially provide for an additional carrying capacity of up to 680 passengers in each direction during weekday peak hours at the stops fronting the site along the Naas Road. Go-ahead no.18 bus route serving Sandymount and Palmerstown operates approximately three buses per hour from stop 2786 on Kylemore Road (R112) less than a 500m walk to the northwest of the site.
- 12.2.33. Under BusConnects proposals, Dublin bus route 13 would be replaced by a high-frequency D-spine service and there would also be a neighbouring high-frequency radial-route service S4, connecting areas between Liffey Valley, Kylemore and University College Dublin. The site is approximately a 1km walk from the Ballymount and Parkmore industrial estates employment area.

12.2.34. I am satisfied that based on bus timetables and guidance within the New Apartment Guidelines defining 'high-frequency' bus services as those operating at a minimum of every ten-minutes during peak hours, the bus stops within easy walking distance of the application site feature 'high-frequency' bus services. In addition to the immediate bus stops, the site is also highly-accessible to Luas light-rail services with access to high-capacity services linking into Dublin city centre. Overall I am satisfied that the site would have easy access to high-capacity and high-frequency public transport services, and these services would be suitable to accommodate the proposed development.

12.2.35. The New Apartment Guidelines (2020) note that increased housing supply must include a dramatic increase in the provision of apartment development to support on-going population growth, a long-term move towards smaller average household size, an ageing and more diverse population with greater labour mobility, and a higher proportion of households in the rented sector. The Guidelines address in detail suitable locations for increased densities by defining the types of locations in cities and towns that may be suitable for same, with a focus on the accessibility of the site by public transport and proximity to city/town/local centres or employment locations. The site is proximate to extensive high employment areas including Kylemore, Park West, Western, John F. Kennedy, Ballymount and Greenhills industrial estates, and it would have easy access via public transport to other high employment areas, such as those in the city centre. I am satisfied that the site is located in what can be described as an 'Intermediate Urban Location' and in accordance with the New Apartment Guidelines such locations can support medium-high density residential development of any scale that includes apartments to some extent and broadly at net densities of greater than 45 dwellings per hectare. The proposals would meet the density recommendations of the Guidelines by exceeding 45 dwellings per hectare. The Guidelines also state that 'the range of locations is not exhaustive and will require local assessment that further considers these and other relevant planning factors' and I have had regard to various relevant planning matters throughout this report in addition to the site location.

12.2.36. Having regard to national and local planning policy, I am satisfied that the site, which is within the Dublin City and Suburbs area of the Metropolitan area, as defined in the RSES, is sequentially well placed to accommodate the additional unit numbers and

in terms of the density proposed (290 units per hectare), this is in compliance with minimum densities recommended under the various scenarios that are considered in existing section 28 guidelines referred to above, albeit subject to further assessment in relation to qualitative standards and other planning matters. In such circumstances the Board may approve the development at higher densities than those provided for in the Local Area Plan, while also allowing for additional unit numbers over those provided for in this area within the Local Area Plan and in the core strategy of the Development Plan.

12.2.37. In conclusion, the proposed density and unit numbers for the application site comply with the provisions of the Local Area Plan, the Development Plan and Government policy seeking to increase housing and densities, and thereby deliver compact urban growth. Notwithstanding this, certain criteria and safeguards must be met to ensure a high standard of design and I address these issues under relevant headings in my assessment below.

Non-residential Floor Areas

12.2.38. Within the key district centre lands of the Local Area Plan, it is estimated that the lands available for redevelopment are capable of delivering approximately 500,000 sq.m of mixed-use development over a twenty-year plus timescale. This approximate floor area is broken down in the Local Area Plan to retail, community, commercial, industrial and residential uses, all of which would be subject to detailed design considerations at the planning application stage. The residential breakdown, including approximate residential units have been considered above and I note that short, medium and long-term timeframes for delivery of these uses are approximated on page 22 of the Local Area Plan. As stated above, the most relevant term stated would be the medium-term year 2023. The proposed development would primarily feature residential development, but would also include retail, community and commercial floor area, as would the recently permitted developments on the Nissan site (DCC ref. 3228/20), Carriglea industrial estate site (DCC ref. 4244/15 and ABP ref. 311606-21) and Royal Liver Insurance Retail Park site (ABP ref.307804-20). I am not aware of any other developments within the key development centre lands of the Local Area Plan that would substantively add to the permitted retail, community or commercial floor areas. In conjunction with these permitted developments, I am satisfied that the subject development would not result in the approximate retail,

community or commercial medium-term floor area limitations of the Local Area Plan for these lands being exceeded.

12.3. Urban Design

Layout and Massing

- 12.3.1. The Planning Authority submission asserts that the proposed development provides for a good design response cognisant of the strategic importance of the Naas Road route and providing a strong urban edge and various public realm improvements. The submission also asserts that the mix of proposed uses would encourage active frontage and focal points on site.
- 12.3.2. Section 16.2.1 of the Development Plan addressing 'Design Principles', seeks to ensure that development responds to the established character of an area, including building lines and the public realm. As part of their Urban Design report, the applicant identifies the key constraints affecting the site, including established building lines, Local Area Plan objectives, routes and infrastructure buffers. The applicant is proposing to construct an indented L-shaped building (blocks A and E) forming a strong edge along the Naas Road, with three finger-elements (blocks B, C and D) projecting to the rear of the block and with a standalone building (block F) situated in the southeast corner of the site. Basement car parking and services areas would be used to create a car-free environment to the rear of the building. Two vehicular accesses would continue to be provided off Carriglea industrial estate access road to the east of the site, while increased permeability would be facilitated across the site for pedestrians and cyclists based on the routes identified tying in with existing and permitted routes. Non-residential uses would primarily be situated along the Naas Road frontage at ground and first-floor level with ancillary residential amenities areas directly above these at second-floor level, all serving to create increased levels of activity and passive surveillance along this primary street frontage. A standalone restaurant pavilion is also proposed to the rear of the apartment block adjoining the proposed public open space and a route linking Carriglea industrial estate access road with the Nissan site to the south. Landscaped courtyards and roof terraces would provide communal spaces for residents of the development.

12.3.3. The applicant has provided a variety of material to rationalise their development designs, including an 'Urban Design' report and a 'Landscape Design Rationale'. Section 8.0 of the applicant's Urban Design report sets out how they consider the detailed design of the scheme to meet the 12 principles of the Urban Design Manual. The layout of the development would be very similar to that which was considered acceptable by the Board under the previously permitted strategic housing development on site (ABP ref.304383-19). Asides from the additional proposed eighth and ninth floors, the applicant's Urban Design report illustrates the other key differences in the layout of the proposed development on each floor, including ground and basement levels. The block layout proposed has been informed by the indicative masterplan layouts illustrated in the Local Area Plan for the adjoining Nissan site and phase 2 of Carriglea industrial estate site forming key development areas to the west, south and east, as well as the permissions on these sites (DCC ref. 4238/19 and ABP ref. 311606-21). According to the applicant, the proposed finger blocks are stepped down to encourage greater light penetration into the south-facing courtyards, as well as being considerate of the development potential of neighbouring Local Area Plan lands.

12.3.4. I consider the proposed block arrangement to be an appropriate design response relative to the constraints and context of the site, including the stepped block arrangement to the rear and the manner in which the blocks address the key arterial routes. There is a clear relationship between the blocks, a hierarchy of open spaces, including overlooked routes and amenity areas, and a reasonable setback from the location of the permitted buildings to the west and the apartments blocks to the south in the Nissan site, from the permitted apartment blocks to the east in the Carriglea industrial estate site and from the boundaries with the adjoining wedge of Z14 zoned lands to the south within the Drimnagh Castle Post-Primary School playing fields. When compared with the existing buildings and uses, the proposed development would provide for greater levels of activity and visual interest at the site.

12.3.5. There is generous provision for pedestrian and cyclist permeability around the site, although greater clarity is needed in order for the proposals to tie-in with the permitted pedestrian and cycle routes in Carriglea industrial estate (ABP ref. 311606-21). I address this further below under the heading 'Traffic and Transportation'. The development has been designed cohesively with the adjoining

Nissan site development (DCC ref. 4238/19). A selection of views into the proposed development are illustrated in the computer-generated images (CGIs) included within the applicant's 'Urban Design' report (see pages 66 to 69), which are also used to illustrate the difference between the permitted scheme (ABP ref. 304383-19) and the proposed scheme.

12.3.6. I am satisfied that the overall layout and massing of the scheme would provide a logical, practical and legible response in redeveloping this site from an urban design perspective.

Building Heights and Scale

12.3.7. In the proceeding sections, I address the issue of building heights and scale, specifically with respect to lighting impacts, visual and residential amenities, microclimate and general appearance. The observers assert that a material contravention of the Development Plan arising from the visual impact of the proposed development, but they have not explained how this would specifically occur. Notwithstanding this, arising from the visual impact assessment undertaken below as part of the EIA, I am satisfied that the proposed development would not reasonably contravene in a material manner the provisions of the Development Plan as a result of its visual impact.

12.3.8. The Planning Authority consider the development with building heights up to ten-storeys to be acceptable in the context of the width of the Naas Road, the permitted building heights on the neighbouring Nissan and Royal Liver Insurance Retail Park sites, the design guidance contained in the Local Area Plan and the creation of frontage onto Naas Road and Carriglea industrial estate access road. Concerns were expressed by the Planning Authority with respect to the height of the inner three finger blocks, which they consider to impact on lighting to the communal open space and the lower-level apartments. I specifically address this matter below when considering the residential amenities of the development. The observers' submission asserts that the proposed development and documentation submitted does not comply with the provisions of the Building Heights Guidelines, including SPPRs 1, 2 and 3, although it is not explicitly stated how this would arise.

12.3.9. The existing buildings on site are a maximum height of 8.2m according to the details submitted with the application. The highest elements of the proposed development

would comprise the five to ten-storey apartment blocks, with a stated maximum height of 33.5m above ordnance datum (OD) (+73.375m OD at plant level), over a basement level. The variation in building heights is illustrated on drawing no. P18-062D-RAU-ZZ- ZZ-DR-A- MPL-31005 (Revision P01). Besides from the apartment buildings, the only other building is the single-storey restaurant pavilion block situated between proposed finger block D and block E. Variation in the height of the main block A onto the Naas Road would be provided by four separate setbacks featuring building heights dropped to nine-storeys, while the finger blocks would each drop down from ten storeys to five storeys closest to the southern boundary with the Nissan site. Across the site there is a very marginal drop in ground levels to the southeast corner. The proposed development would be substantially higher than the surrounding existing buildings in the immediate area, which generally consist of 8m-high warehouse and commercial units.

12.3.10. The policy basis for my assessment of the proposed building heights is informed by both national and local planning policy. In terms of national policy, I assess the development against the Building Heights Guidelines, which provide a detailed national planning policy approach to the assessment of building heights in urban areas. I have considered these Guidelines alongside other relevant national planning policy standards, including national policy in the NPF, particularly NPO 13 concerning performance criteria for building height, and NPO 35 concerning increased residential density in settlements. I have had regard also to the observers' submission, to the application details, including the visual impact assessment accompanying the EIA, the photomontages and CGIs, and the Urban Design report, as well as my visit to the site and its surroundings.

12.3.11. In terms of local planning policy, I have had regard to the Development Plan and the Local Area Plan. In order to protect and enhance the skyline of the city and to ensure that all proposals for mid-rise and taller buildings make a positive contribution to the character of the city, policy SC17 of the Development Plan refers to the criteria, principles and development standards in chapter 16 of the Development Plan. Section 16.7.2 of the Development Plan sets 24m as the maximum height permissible for residential and commercial buildings in this low-rise area of the outer city within 500m of a Luas light-rail stop. The Development Plan also states that there would be scope for mid-rise buildings up to 50m in height in locations such as

the Naas Road Lands, but that planning applications would need to be assessed against the building heights and development principles established in a relevant Local Area Plan and/or SDRA. The proposed apartment buildings would fall into the category of mid-rise buildings that would exceed the 24m height limit criteria recommended for this area. Consequently, I am satisfied that the proposed development could reasonably be considered to materially contravene Development Plan policy SC17 of the Development Plan with respect to building heights. In such a situation it is open to the Board to consider the proposal in terms of a material contravention and I refer the Board to section 12.8 hereunder in relation to same.

12.3.12. Policy UFO1 of the Local Area Plan requires building heights on redevelopment sites to be in accordance with indicative heights set out in the height strategy set out in section 4.5.3 and map 4.6 of the Local Area Plan. The overall aim of the Local Area Plan is to create a sense of place and legibility by developing a consistent, perimeter block/street arrangement, typically of four to six storeys in height addressing the main roads and three to six storeys within each site, with numerous links created via new streets and green routes. The Local Area Plan identifies sites for alternative building heights, such as 'corner locations' and 'key development sites'. In section 4.5.4 of the Local Area Plan provision is made for indicative building heights of five to six storeys onto Naas Road and a maximum of five storeys for other areas, such as the application site. Map 4.6 identifies a band along the front of the application site running parallel with the Naas Road that is marked for four to six storey buildings of 20m to 24m in height. The Local Area Plan also stipulates potential criteria that may restrict the achievement of the stated building heights, including proximity to low-rise housing, Seveso restrictions or restrictions due to utilities infrastructures, such as electricity pylons.

12.3.13. I am satisfied that the proposed apartment blocks at heights greater than 24m and six storeys onto the Naas Road and greater than five storeys along Carriglea industrial estate access road and to the rear of the site could reasonably be considered to materially contravene Local Area Plan policy UFO1 with respect to building heights. As stated above, it is open to the Board to consider the proposal in terms of a material contravention and I again refer the Board to section 12.8 hereunder in relation to the issue of material contravention.

12.3.14. To provide for the consistency required in the Local Area Plan, in order to create a sense of place and legibility, perimeter and street blocks need to be similar in height to the permitted building heights on adjoining developments. Of note, the Nissan site would feature building heights of ten and 15 storeys onto the Naas Road, while the rear blocks onto the application site would be six to eight storeys. The nearest neighbouring permitted block in phase 2 of the Carriglea industrial estate would also feature eight storeys. To be broadly consistent with the heights of buildings permitted on the adjoining sites and comply with the provisions of the Local Area Plan, I am satisfied that the building heights proposed would be appropriate for the site.

12.3.15. The Building Heights Guidelines describe the need to move away from blanket height restrictions and that within appropriate locations, increased height will be acceptable even where established heights in the area are lower in comparison. In this regard, SPPRs and the Development Management Criteria under section 3.2 of these section 28 Guidelines have informed my assessment of the application. SPPR 3 of the Building Heights Guidelines states that where a Planning Authority is satisfied that a development complies with the criteria under section 3.2, then a development may be approved, even where specific objectives of the relevant Development Plan or Local Area Plan may indicate otherwise. Section 3.1 of the Building Heights Guidelines presents three broad principles that Planning Authorities must apply in considering proposals for buildings taller than the prevailing heights:

1. does the proposal positively assist in securing National Planning Framework objectives of focusing development into key urban centres and in particular, fulfilling targets related to brownfield, infill development and in particular, effectively supporting the National Strategic Objective to deliver compact growth in our urban centres?
2. is the proposal in line with the requirements of the Development Plan in force and such a plan has taken clear account of the requirements set out in Chapter 2 of the Building Heights Guidelines?
3. where the relevant Development Plan or Local Area Plan pre-dates these Guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant Plan or planning scheme does not align

with and support the objectives and policies of the National Planning Framework?

- 12.3.16. As noted and explained throughout this report, by focussing development in key urban centres and supporting national strategic objectives to deliver compact growth in urban centres, I am satisfied that the proposed development meets the requirements set out in item 1 above. The Planning Authority is also of the opinion that the site is suitable for a higher density of development, in accordance with the principles established in the NPF.
- 12.3.17. Item 2 above would not be met as part of the subject proposals. Blanket height limits relative to context are applied in the Development Plan, which I am satisfied does not take clear account of the requirements set out in the Guidelines and lacks the flexibility to secure compact urban growth through a combination of both facilitating increased densities and building heights, while also being mindful of the quality of development and balancing amenity and environmental considerations.
- 12.3.18. In relation to the question in item 3 above, it cannot be demonstrated that implementation of the policies of the Development Plan and the Local Area Plan, which predate the Guidelines, support the objectives and policies of the NPF.
- 12.3.19. The applicant has provided a statement of consistency that asserts compliance with SPPR 3(a) of the Building Heights Guidelines. In principle, I am satisfied that there is no issue with the height in terms of compliance with national policy, therefore the issue of height should be considered in the context of SPPR 3(a), which refers to the criteria in section 3.2 of the Building Heights Guidelines. Section 3.2 of the Building Heights Guidelines states that the applicant shall demonstrate to the satisfaction of the Planning Authority/An Bord Pleanála that the proposed development satisfies criteria at the scale of relevant city/town, at the scale of district/neighbourhood/street and at the scale of site/building, in addition to specific assessments.

Section 3.2 Criteria: At the scale of relevant city/town

- 12.3.20. The first criteria under section 3.2 of the Building Heights Guidelines relates to whether the site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.
- 12.3.21. As part of their Traffic Impact Assessment the applicant has provided maps of the area showing public transport services, as well other routes both existing and

planned for the immediate area. The existing bus and Luas stops along the Naas Road are easily accessible for walking purposes with no steep terrain and I have referred to the distance and extent of the services available from these stops above. Following on from the consideration of densities above, I am satisfied that the site and proposed development is well served by high frequency, high-capacity Luas light-rail and public bus services within walking distance of this site, which link into the wider high-capacity public transport system.

12.3.22. National and local policy recognises the need for a critical mass of population at accessible and serviced locations within the metropolitan area. I am satisfied that the site is ideally located and well served with options to access existing high-frequency, high-capacity public transport routes, with links between modes, as well as increased access and connections available through more active modes of walking and cycling. All road networks feature limited capacity in terms of accommodating private cars and increased population in locations such as the application site area, which are well serviced by public transport and have the capability for additional services as demand requires, should be developed in the interest of providing for sustainable communities. Overall, I am satisfied that the level of public transport that is currently available is of a scale that can support the future population arising from the proposed development, with alternative options of walking and cycling also of value given the proximity of the site to various services and amenities. Additional planned services in this area by way of BusConnects, will be supported by providing for developments such as this, which will support a critical mass of population at this accessible location within the metropolitan area, in accordance with national policy for consolidated urban growth and higher densities.

12.3.23. Point two under this part of the section 3.2 criteria relates to the scale of the development and its ability to integrate into/enhance the character and public realm of the area, having regard to topography, its cultural context, the setting of key landmarks and the protection of key views. As required, a Visual Impact Assessment carried out by suitably qualified practitioners has been submitted as part of the EIAR, in addition to photomontages and CGIs, an architect's Urban Design report and associated architectural drawings. I have viewed the site and its surrounds from various locations. Visual impact assessment undertaken as part of the EIA below concludes that the proposed development in this urban area would not

be unduly obtrusive or detract from the character of the wider area. While the observers refer to material impacts on an architectural conservation area (ACA), I note that there are no ACAs within the immediate area and the proposed development would not substantively interfere with the character or setting of Drimnagh Castle, including views and vistas of this historical structure, which is over 250m to the southeast of the site. The proposals would not contravene the Development Plan in relation to the provision of an ACA designation.

12.3.24. Due to the site size and the site context creating a strong urban edge onto the Naas Road and Carriglea industrial estate access road, I am of the opinion that the site has the capacity to accommodate buildings of scale and support a variety of heights, which can integrate into or enhance the character and public realm of the area without undue detriment to the existing character or setting of the area. I consider the proposed development, including buildings heights, would not appear out of character with the emerging building heights in this part of the city. The proposal has had adequate regard to its proximity to neighbouring properties and will not in my view negatively impact on their setting or amenity (see section 12.5 below). I consider the proposed development, having regard to its layout, design and finishes, would enhance the appearance of the area.

12.3.25. With regard to the contribution of the development to place-making and the delivery of new streets and public spaces, I note that various routes would be provided connecting with lands to the south, as well as substantive improvements to the public realm along the Naas Road and Carriglea industrial estate access road.

Section 3.2 Criteria: At the scale of District / Neighbourhood / Street

12.3.26. The bullet points under this section of the Building Heights Guidelines relate to how the proposals respond to the overall natural and built environment and the contribution of the development to the urban neighbourhood and streetscape, and whether this would be monolithic in form, whether this would enhance the urban design of public spaces in terms of building a sense of scale and enclosure and whether this would provide legibility through the site, integrating with the wider urban area and contributing to building/dwelling typologies available in the neighbourhood.

12.3.27. The lands to the south are not particularly sensitive from a development perspective given their existing use as open car yards primarily, as well as a corridor for

electricity pylons, creating substantive buffers from the development to neighbouring properties and land uses. Modulated building heights along the most sensitive boundary to the south, would appear to effectively respond to the future built environment based on permitted plans for the area. The design comprises a stepped building height at the upper level and set backs at intervals along the main frontage onto the Naas Road, breaking up the appearance of the block, while the materials, including buff brick and metal cladding, would respect the character of the area, including permitted developments. Strong urban edges would be created with passive surveillance of the public open space on site and the pedestrian and cycle routes running through and around the site. Greatest building heights are proposed onto the key thoroughfares.

12.3.28. In terms of how the development responds to the overall natural environment, I note the limited existing vegetation on site and the applicant's proposals incorporating trees and other planting within the development. I am satisfied that the development responds appropriately to the existing built environment and the design and form of the proposed buildings would contribute to the urban neighbourhood and streetscape. While the proposed development will alter the visual character of the area, this is consistent with emerging trends and is consistent with new development generally being at an increased scale, more appropriate to the urban context and the accessibility of the area.

12.3.29. With regard to consideration of the criteria relating to legibility, I am satisfied that the proposal would make a positive contribution to the improvement of legibility in the wider urban area, particularly when other developments to the south and southeast are completed. I am satisfied that the proposed development makes a positive contribution to the legibility of this urban environment, dovetailing with the Nissan site development to the south, stepping down building heights to reflect permitted neighbouring building heights and integrating its layout with the existing and permitted local street network. I note the increased densities being permitted along the more strategic routes within the wider area. The design and layout as proposed achieves higher densities, while respecting the character of the adjoining areas.

12.3.30. The requirements of 'The Planning System and Flood Risk Management – Guidelines for Planning Authorities' (2009) have been complied with as part of the

applicant's submission of a Site Specific Flood Risk Assessment, which is addressed further below in section 12.7.

Section 3.2 Criteria: At the scale of site / building

12.3.31. In relation to consideration at the scale of the site/building, I have considered in more detail in section 12.5 the impact of height on the amenity of neighbouring properties, including issues such as daylight, overshadowing, loss of light, views and privacy. I consider the form, massing and height of the proposed development has been well considered and issues in relation to sunlight/daylight/overshadowing have been adequately addressed (see sections 12.4 and 12.5 hereunder).

Section 3.2 Criteria: Specific Assessments

12.3.32. A number of specific assessments have been undertaken and submitted with this application, specifically in relation to sunlight/daylight, noise impact and microclimate issues (as listed in section 3 above and referenced throughout this report), which I consider are sufficient to assess a development of the scale proposed. AA screening and an EIAR containing a biodiversity impact assessment have been submitted as part of the application to demonstrate no significant impact on ecology, and no likely adverse impact on protected habitats or species, including bats and birds. Likely impacts for telecommunication channels are considered as part of a Telecommunications Report submitted as part of the application. This outlines that diffraction for four microwave telecommunication channels as a result of the proposals, but that this can be resolved via the provision of two support poles affixed to ballast mounts and rising 2m above roof level. These details have been submitted as part of the drawings included with the application and I discuss this further below with respect to the Materials Assets section of my EIA. Proposals do not provide for tall buildings with likely impacts for safe air navigation and the site is not within an airport public safety zone. SEA is not required or applicable. I am satisfied that adequate information has been submitted to enable me to undertake a thorough assessment of the impact of the proposed development.

Building Heights and Scale Conclusion

12.3.33. Overall, I am satisfied that the proposed development would add visual interest, would make a positive contribution to the area and would improve legibility with the height, scale and massing acceptable in townscape and visual terms. I am satisfied

that the proposed development would contribute to the sustainable and compact growth of the area based on the information available and submitted.

12.3.34. The Board may in circumstances approve development for higher buildings, even where specific objectives of the relevant Development Plan or Local Area Plan may indicate otherwise, as per SPPR 3. In this regard, while the height is greater than the standard heights outlined for the site within the Development Plan and the Local Area Plan and would be greater than the height of existing neighbouring buildings, I am satisfied that the proposed development would provide for a strong, well-designed urban form at this highly accessible and serviced site, and the building heights proposed would be in accordance with national policy and guidance to support compact consolidated growth within the footprint of existing urban areas.

Architectural Details, Materials and Finishes

12.3.35. The materials largely maintain the architectural treatments of the previously permitted scheme, including the finishes for the buildings, such as brickwork and metal cladding, and the Planning Authority consider the proposals to comprise a high-quality palette of materials. There would be a consistent architectural language throughout the scheme with the use of light-coloured brick elements, large glazed openings and framing, as well as powder-coated metal cladding at setback elevations to break up building elevations. The proposed primary use of brick would provide a robust, low maintenance and long-lasting finish to the buildings. The choice of materials for the buildings would articulate the massing arrangements and would provide modulation in both the horizontal and vertical elements. The single-storey pavilion structure would be more light-weight in appearance, featuring extensive use of glazing onto the courtyard public open space. Paving materials within the development have been specified with the intent of providing high-quality surface materials that would survive well over the long-term and require little maintenance.

12.3.36. The detailing and materials are generally durable and of a high standard, including the hard landscaping finishes, and the final details of materials, can be addressed via condition in the event of a permission for the development. The applicant's rationale for the materials chosen would appear reasonable given the emerging development context. There is variety in the scale and a consistency in the rhythm

and proportions of the proposed apartment buildings, and I am satisfied that the proposed scheme is of a contemporary design that would make a positive contribution towards place-making in the area.

Open Space

12.3.37. The applicant initially addresses the potential for the development to materially contravene the Development Plan with respect to public open space provision, but subsequently concludes that this would not arise. Observers to the application assert that the open space proposals would materially contravene the Development Plan standards. Section 16.10.3 of the Development Plan states that ‘the design and quality of public open space is particularly important in higher density areas’. There is a requirement in the Development Plan for 10% of ‘Z14-zoned’ lands to be provided as meaningful public open space in development proposals. The applicant asserts that 2,593sq.m of public open space would be provided in total within the development, including a public park and sections along the frontage with Carriglea industrial estate road, which represents approximately 13.8% of the overall site. The applicant states that these open spaces would be managed by the build-to-rent operator. The hierarchy and function of the various open spaces to serve the development and the public are indicated within the applicant’s Urban Design report, including the proposed public and communal open spaces, which would be of varying function distributed throughout the development, accessible and overlooked by residential buildings. The applicant’s Sunlight, Daylight and Overshadowing study refers to 99% of the proposed public open space receiving at least two hours of sunlight on the 21st day of March, which is greater than the 50% requirement sought in the BRE 209 standards, as discussed in greater detail below.

12.3.38. The Local Area Plan includes a number of policies with respect to the provision of green infrastructure, including landscaping measures, linkages and policy G12 requiring sufficient public open space to serve the projected population. Map 4.1.2 of the Local Area Plan identifies a proposed green link objective along the western boundary of the site following the existing electricity pylon corridor, as well as a green space fronting the Carriglea industrial estate road, cutting diagonally across the southeast corner of the site.

12.3.39. Extensive details of the features and materials within the public space are provided as part of the applicant's Landscape Report, including a playground area (370sq.m) and focal sculpture, and I am satisfied that the design would readily meet the stated objectives of the Local Area Plan for this area. The report from the Parks, Biodiversity and Landscape Services section to the Chief Executive of the Planning Authority does not object to the proposals and requires the attachment of standard conditions relating to landscaping and open space management, as well as the provision of public artwork. I am satisfied that this would be a reasonable request.

12.3.40. Comprehensive landscaping details have also been provided as part of the application package, as well as public lighting details, including surface-level layout plans and a site lighting report identifying likely illumination levels relative to the proposed lighting stands to be used within the proposed development has been provided. Finalised lighting can also be agreed as a condition in the event of a permission.

12.3.41. I am satisfied that the necessary quantum, function and lighting for the public open space required to serve the development would be provided as part of the overall development on this landholding. The proposed open space provision would not materially contravene statutory plans for this area and it would fulfil objectives of the Local Area Plan in providing public open spaces of varying function to serve the proposed development and the neighbouring communities.

Conclusion

12.3.42. Subject to conditions, I am satisfied that the overall layout, massing and design of the scheme would provide a logical, practical and legible response in redeveloping this site from an urban design perspective, particularly considering the planning history of the site and the emerging permissions for development in the immediate area, in accordance with the principles set out in the Local Area Plan, the Development Plan, the Urban Design Manual and the NPF.

12.4. Residential Amenities and Standards

12.4.1. An assessment of the amenities of the proposed development relative to quantitative and qualitative standards for residential development is undertaken below having regard to the guidance set out in the New Apartment Guidelines, the Development

Plan, the Local Area Plan and the Building Heights Guidelines, which also refer to documents providing guidance for daylight / sunlight assessments within new developments. The subject development would not come within a category of development that would be open to relaxed development standards. The Local Area Plan includes policy H2 requiring that all new housing delivers high-quality residential environments and objective HO2 of the Local Area Plan looks to facilitate and encourage new residential development in accordance with the Development Plan residential quality standards.

- 12.4.2. I note that policy QH1 of the Development Plan seeks to have regard to various Department guidance documents, including the 'Sustainable Urban Housing: Design Standards for New Apartments' (2015). Section 16.10.1 of the Development Plan requires proposals for apartments to comply with the standards set out in the 2015 version of the New Apartment Guidelines. Since the adoption of the Development Plan, these section 28 New Apartment Guidelines were updated in 2018 and again in 2020. Where guidelines referred to in the Development Plan have been updated since the Development Plan was adopted, the Planning Authority refer to the current guidance in their report on this application, including the 2020 New Apartment Guidelines. This is considered to be a reasonable approach in assessing the acceptability or otherwise of the subject proposals.
- 12.4.3. In contrast to the 2015 version of the New Apartment Guidelines, the 2020 guidelines include SPPR provisions for build-to-rent developments, which take precedence over any conflicting policies and objectives of Development Plans. SPPRs allowing for flexibility in relation to build-to-rent developments were not included in the 2015 guidelines, although the Development Plan did provide certain provisions for this form of housing tenure. In this context, I am satisfied that it would be reasonable to apply the updated New Apartment Guidelines (2020), which allows for greater flexibility in relation to build-to-rent developments.
- 12.4.4. Further to this, I am satisfied that the provisions within section 16.10.1 of the Development Plan are clearly standards and deviation from these standards would not be likely to be of a material nature, particularly where there is compliance with contemporary and more up-to-date development standards.

Apartment Mix

- 12.4.5. The mix of apartments proposed would comprise 3.5% studio, 40% one-bedroom, 53.5% two-bedroom and 3% three-bedroom apartments. Policy H5 of the Local Area Plan seeks a mix of housing typologies within residential developments in the area, without explicitly outlining the breakdown for same. Section 16.10.1 of the Development Plan is more specific and normally requires a mix of no more than 25% to 30% of one-bedroom units in a development and a minimum of 15% of three or more bedroom units. The proposed development would not comply with this standard of the Development Plan. The applicant addresses this matter within their Statement of Material Contravention.
- 12.4.6. The observers consider the proposed development to materially contravene the normal unit mix standards contained in the Development Plan, however, I do not consider this to be a material contravention of the Development Plan, as it only relates to non-compliance with a standard of the Development Plan, and not a policy of this Plan.
- 12.4.7. Section 16.10.1 of the Development Plan states that the normal mix of unit types will not apply to managed 'build-to-let' apartment schemes for mobile workers where up to 42-50% of the total units may be in the form of one-bed or studio units'. This provision only applies to long-term purpose-built managed schemes of over 50 units, developed under the 'build-to-let' model and located within 500m walking distance of centres of employment or adjoining major employment sites. Centres of employment are identified in figure W of the Housing Strategy forming appendix 2A to the Development Plan.
- 12.4.8. The apartments are to be developed under the build-to-rent model, as advertised, and would cater for amongst others, mobile workers. The percentage of proposed studio and one-bedroom apartments would amount to 43.5% in compliance with the 42% to 50% maximum Development Plan build-to-let threshold. The proposed development is a long-term, purpose-built managed scheme comprising 545 residential units, well over the 50-unit threshold. While the development may not be within 500m of an area specifically designated within figure W of the Development Plan or the associated electoral divisions, it is adjoining major employment sites, including extensive commercial and industrial parks. The site is proximate to high-

quality public transport facilities with good cycle and pedestrian connectivity, including links to numerous other uses, services and infrastructures. Consequently, I consider the proposed development to be broadly in compliance with the Development Plan unit mix standards for build-to-rent developments.

12.4.9. Further to this, specifically in relation to the unit mix requirements for build-to-rent developments, SPPR 8(i) of the New Apartment Guidelines states that there shall not be restrictions on unit mix in build-to-rent developments. The Planning Authority accept that the unit mix complies with the New Apartment Guidelines (2020).

12.4.10. Having regard to all of the above, I consider that the proposed unit mix is acceptable in this instance given the locational context of the site, the established commercial / industrial nature of the area where there is currently limited residential development, as well as national guidance in this regard. As highlighted within the NPF, seven out of ten households in the State consist of three people or less and this figure is expected to decline further to approximately 2.5 persons per household by 2040. The proposed development would add greatly to the availability of studio, one-bedroom and larger apartments in an area of the city currently comprising limited housing stock. The proposed development may exceed a normal unit mix standard in the Development Plan, however, this would not represent a material contravention of the Development Plan as it would comply with the 'build-to-rent' unit mix standards in section 16.10.1 of the Development Plan, while complying with the standards in the New Apartment Guidelines and policy H5 of the Local Area Plan.

Two-bedroom Three-person Apartments

12.4.11. The applicant states that the provision of 35 two-bedroom three-person apartments amounting to 6.5% of the units in the scheme would be justified as they would provide for a greater range of units, allowing for a double and single bedroom, particularly suitable for small families. The applicant also notes that the extant permission (ABP ref. 304383-19) allowed for these units. Based on the provisions of SPPR 8(i) of the New Apartment Guidelines, there would not be a restriction on the provision of these units, and the proportion of these proposed units would not exceed the 10% provision normally allowed for in the Guidelines.

Apartment Sizes

- 12.4.12. The applicant asserts that the proposed apartments have been designed to fully accord with the apartment sizes within the New Apartment Guidelines. A Housing Quality Assessment with a Schedule of Accommodation has been submitted with the application, which provides details of apartment sizes, room sizes, storage space, aspect and private amenity space.
- 12.4.13. Minimum unit size requirements are not stated in the Local Area Plan. In contrast to the Development Plan, the New Apartment Guidelines allow for studio apartments measuring 37sq.m, which is 3sq.m smaller than what is allowed for in section 16.10.1 of the Development Plan. Furthermore and as stated above, the New Apartment Guidelines also allow for two-bedroom units accommodating three-persons and measuring a minimum of 63sq.m, whereas section 16.10.1 of the Development Plan only allows for two-bedroom apartments measuring a minimum of 73sq.m without specifying the number of persons that are to be occupied.
- 12.4.14. The minimum size of the apartments proposed at 37sq.m for a studio unit, 45sq.m for a one-bedroom unit and 95sq.m for a three-bedroom unit, would meet or exceed the 37sq.m, 45sq.m, and 90sq.m respectively required for these units in the New Apartment Guidelines. The proposed development would feature three-person two-bedroom units and four-person two-bedroom units respectively measuring a minimum of 69sq.m and 73sq.m, exceeding and meeting the minimum 63sq.m and 73sq.m respectively required in the New Apartment Guidelines for these units.
- 12.4.15. With the exception of eight of the studio apartments featuring floor areas below 40sq.m floor and 26 of the two-bedroom three-person apartments featuring floor areas below 73sq.m, the proposed development would meet the standards required in Section 16.10.1 of the Development Plan.
- 12.4.16. As stated above, I do not consider non-compliance with a standard cited in section 16.10.1 of the Development Plan to represent a material contravention of the Development Plan, as non-compliance with a policy or an objective of the Development Plan would not arise and as the Development Plan refers to the need for development to be assessed having regard to various section 28 Guidelines, including the New Apartment Guidelines, which have been updated since adoption of the Development Plan to feature contemporary national guidance, including SPPR

provisions that take precedence over conflicting policies or objectives of Development Plans. All of the proposed apartments meet or exceed the minimum floor areas required in the New Apartment Guidelines and, as such, I am satisfied that compliance with the relevant development standards would be achieved in this case.

12.4.17. The internal design, layout, configuration and room sizes for each of the apartments, as identified in the drawings and Housing Quality Assessment would appear to accord with or exceed the relevant standards, as listed in appendix 1 of the New Apartment Guidelines. For build-to-rent schemes, SPPR 8(ii) of the New Apartment Guidelines allows for a relaxation in the 3sq.m, 6sq.m and 9sq.m internal storage space respectively required in the Guidelines and the Development Plan for one, two and three-bedroom apartments, although the proposals comply with same.

12.4.18. A total of 41% of the apartments would exceed the New Apartment Guidelines floor space standards by more than 10%, however, based on SPPR 8(iv) of the New Apartment Guidelines the majority of the units are not required to meet or exceed the 10% additional floor space normally required for apartment developments.

Units per Core

12.4.19. Under the heading 'Block Configuration', the Development Plan allows a maximum of eight apartments per floor per core. SPPR 8(v) of the New Apartment Guidelines does not set a minimum requirement for lift and stair core access per apartment. Based on my review of the drawings it would appear that 12 apartments for every floor in proposed blocks A to E would be served by two stair and lift cores. Block F would feature a stair and lift core for five apartments on each floor. Consequently, the proposed development would comply with the 'block configuration' requirements of the Development Plan.

Floor to Ceiling Heights

12.4.20. SPPR 5 of the New Apartment Guidelines requires a minimum floor-to-ceiling height of 2.7m for the ground-floor level of new build apartment blocks. The Development Plan also refers to schemes with less than 50% dual aspect units, requiring floor-to-ceiling heights of a minimum of 2.7m, with 3m floor-to-ceiling heights at ground floor. Floor-to-ceiling heights of 2.85m for upper-floor levels and a minimum of 3.1m for ground-floor levels within the proposed blocks are illustrated on the drawings

submitted. This is in compliance with SPPR 5 of the New Apartment Guidelines and the increased heights to the commercial units are reflective of the location, function and potential adaptability of these units.

12.4.21. Section 16.10.1 of the Development Plan also refers to ground-floor apartments that front onto or adjoining busy commercial streets with significant pedestrian footfall in the city centre or in the key district centres requiring minimum floor-to-ceiling heights of 3.5 to 4m to allow for future potential commercial uses. The site is within a key development centre, although I am satisfied that it would only be the Naas Road frontage that would conform to a commercial street with future potential for significant pedestrian footfall, and the Carriglea industrial estate access road would be unlikely to feature future potential for significant pedestrian footfall given its context within the Local Area Plan lands and the primacy of the Naas Road route, including public transport services. Consequently, as commercial units are already proposed onto the Naas Road and the Carriglea industrial estate access road would serve as a secondary route with limited pedestrian footfall, there would not be a strict requirement for the ground-floor of the development to feature a minimum floor-to-ceiling height of 3.5m to 4m. Furthermore, as highlighted above, I am satisfied that if considered otherwise, non-compliance with a development standard cited in section 16.10.1 of the Development Plan could not reasonably be considered to result in a material contravention of the Development Plan for the reasons I have previously stated.

Private Amenity Space

12.4.22. SPPR 8(ii) of the New Apartment Guidelines allows for flexibility with regard to the normal private amenity space standards serving apartments in build-to-rent schemes. A total of 62% of the apartments would be provided with either balconies, patio areas, roof terraces or winter gardens, which is similar to the previously permitted proposals on site in this regard (ABP ref.304383-19). The vast bulk of the apartments not featuring dedicated private amenity space are those along the Naas Road and Carriglea industrial estate access road frontages. There would be scope for ground-floor garden terraces to be provided for apartments in Block F, as was sought via condition under ABP ref. 304383-19, and should be requested via condition if permission is granted. As noted below, compensatory communal facilities to address the shortfall in private amenity space are provided and the

applicant asserts that the bay-window features providing additional space for apartments not featuring private amenity space, would compensate for the shortfall and ensure the development would comply with the provisions of SPPR 8(ii). The Planning Authority are satisfied with the private amenity space provision, including compensatory measures to address the shortfall that are cited by the applicant. Observers have not specifically objected to this element of the proposed development.

12.4.23. The Development Plan requires a minimum requirement of 4sq.m private amenity space per studio apartment in a development, 5sq.m for a one-bedroom apartment, 7sq.m for a two-bedroom apartment and 9sq.m for a three-bedroom apartment. The depth of these spaces should be at least 1.5m. Private amenity space for each of the apartments, including balcony and terrace sizes, would fail to meet or exceed the minimum requirements of section 16.10.1 of the Development Plan and the applicant has not addressed this as part of their Statement of Material Contravention.

12.4.24. Consistent with my assessment conclusions above with respect to unit mix and unit sizes, I do not consider non-compliance with private amenity space standards cited in section 16.10.1 of the Development Plan to represent a material contravention of the Development Plan. There is not a specific need under contemporary national guidance for each individual apartment in the development to be provided with a minimum area of private amenity space. The development would feature compensatory measures, including a variety of communal facilities both internal and external, as well as public open space, providing for high-quality and enhanced amenity space for future residents of the build-to-rent development and, accordingly, I am satisfied that the provision of private amenity space would accord with the requirements for same set out under SPPR 8(ii) of the New Apartment Guidelines.

Communal Open Space

12.4.25. Appendix 1 of the New Apartment Guidelines and the Development Plan sets out a minimum requirement of 4sq.m communal amenity space per studio apartment in a development, 5sq.m for a one-bedroom apartment, 7sq.m for a two-bedroom four-person apartment and 9sq.m for a three-bedroom apartment. This would require 3,352sq.m of communal amenity space for the proposed development, which is to be provided in five surface-level courtyards measuring between 223sq.m and 977sq.m,

and four eighth-floor roof terraces measuring between 33sq.m and 133sq.m. This would bring the external communal open space to 3,423sq.m. The applicant refers to the development featuring 40% additional provision of communal open space relative to the New Apartment Guidelines and the Development Plan requirements, but this would not appear to be the case and would appear to include the internal communal space.

12.4.26. Appendix 2 of the Local Area Plan refers to standards within the Dublin City Development Plan 2011-2017, including a need for a minimum combined private and communal open space provision of 12 to 15 sq.m per bedspace outside the city centre area. This would equate to a requirement for 10,212sq.m of combined private and communal open space based on the 851 bedspaces proposed in the subject development. The applicant is proposing in the region of 2,000sq.m private open space and 3,423 communal open space, which would be well below the requirement of the Local Area Plan. The applicant has not addressed this in their application, nor have observers objected to this aspect of the proposals.

12.4.27. I am satisfied that the standard sought under the Development Plan is not relevant in the consideration of the subject application, given that the Development Plan covering the period 2011 to 2017 is no longer a statutory plan for this area and the subsequent statutory Development Plan covering the 2016 to 2022 period does not refer to this '12 to 15 sq.m per bedspace' combined private and communal open space standard. Accordingly, I am satisfied that the proposed development could not reasonably be considered to materially contravene Local Area Plan standards with respect to 'private and communal open space design guidance'.

12.4.28. There is variety in the function and aesthetics of the communal surface and roof terrace spaces with play areas and associated features assigned for children of all ages, in compliance with the provisions within the Local Area Plan, section 16.1 and policy GI33 of the Development Plan and section 4.13 of the New Apartment Guidelines.

12.4.29. With the exception of the western courtyard (no.1), between 73% and 100% of the surface communal amenity areas would receive at least two hours of sunlight on the 21st day of March, which is greater than the 50% requirement sought in the BRE 209 standards. With the exception of the terrace space (no.8), between 97% and 98% of

the roof terrace communal amenity areas would also receive at least two hours of sunlight on the 21st day of March. The applicant states that 41% of courtyard space no.1 and none of rooftop terrace no.8 would receive more than 2 hours sunlight on the 21st day of March. While it would be preferable for each of these spaces to each receive sufficient light based on the BRE 209 standards, courtyard space no.1 is only marginally short of the standard requirement, whereas rooftop terrace no.8 is of very marginal size (33sq.m). Collectively, 81% of the communal open space would receive more than 2 hours sunlight on the 21st day of March and residents would have access to all communal spaces within the development. In conclusion, I am satisfied that the communal open space proposals would provide a reasonable level of amenity for future residents based on the relevant applicable standards.

Dual Aspect Apartments

- 12.4.30. With regard to aspect, the Development Plan refers to standards contained in SPPR 4 of the New Apartment Guidelines, which require 50% dual aspect apartments in suburban and intermediate locations or 33% dual aspect apartments in central and more accessible urban locations. The Local Area Plan does not specifically address this issue. The applicant asserts that the proportion of dual aspect units is appropriate based on the provision of dual aspect units in the previously permitted development (ABP ref.304383-19). The previously permitted scheme was asserted to provide 48% dual aspect units with many of these units featuring bay window arrangements.
- 12.4.31. The Planning Authority state that they would have preferred an increased provision of dual aspect units than what is proposed, while accepting that there would be an increased proportion of dual aspect units in the two additional upper floors to the proposed development, when compared with the overall proportion of dual aspect apartments in the previously permitted scheme.
- 12.4.32. As discussed in section 12.2 addressing the density of the proposed development, I consider the site to be within an accessible location given its proximity to public transport, and its context within the Local Area Plan lands clearly reveals the site to be within a highly urban area, therefore, a minimum of 33% dual aspect apartments would be acceptable in this case. A total of 186 apartments are stated to form dual aspect units, which would equate to 34% of the apartments within the scheme.

Having reviewed the submitted floor plan drawings and the units referred to in the schedule of accommodation, I am satisfied that this would be an accurate assessment of the dual aspect units within the development.

12.4.33. Section 3.18 of the New Apartment Guidelines states that where single-aspect apartments are provided, the number of south-facing units should be maximised, with west or east-facing single-aspect units also being acceptable. It also states that north-facing single-aspect apartments may be considered, where overlooking a significant amenity, such as a public park, garden or formal space, or a water body or some other amenity feature. The applicant asserts that the proposed development has been designed to avoid due north-facing single aspect apartments with winter gardens provided for these units to allow westerly views that would receive late afternoon and evening sun. A similar approach was deemed acceptable as part of the previously permitted development on site (ABP ref. 304383-19) and it is also noted that the residents' rooftop terraces would also benefit from southerly aspect.

12.4.34. In conclusion, I am satisfied that the proposed aspect for the units, including their configuration and orientation, would be acceptable and would be in compliance with SPPR 4 of the New Apartment Guidelines and the Development Plan standards.

Daylight Provision

12.4.35. Section 3.2 of the Building Heights Guidelines state that the form, massing and height of a proposed development should be carefully modulated, in order to maximise access to natural daylight, ventilation and views, and to minimise overshadowing and loss of light. The Guidelines state that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides such as BRE 209 'Site Layout Planning for Daylight and Sunlight - A Guide to Good Practice' (2011) and BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solution must be set out, in respect of which the Planning Authority or An Bord Pleanála should apply their discretion, having regard to local factors, including site specific constraints and the balancing of that assessment against the desirability

of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution. Section 6.6 of the New Apartments Guidelines also states that Planning Authority's should have regard to BRE 209 and BS 8206-2: 2008 standards.

12.4.36. The applicant's Daylight, Sunlight and Overshadowing Study provides an assessment of daylight access within the proposed scheme having regard to the quantitative standards in BRE 209 and BS 8206-2: 2008. The Planning Authority have some concerns with respect to the number of apartments falling below the 2% average daylight factor (ADF) target value set for kitchen/living/dining rooms in the BRE 209 guide and the impact of the height of the proposed finger block elements, which they consider to restrict lighting below the ADF targets values for numerous proposed lower-level apartments. The observers' submission does not explicitly address the lighting details for the proposals.

12.4.37. The aforementioned BRE 209 and BS 8206-2: 2008 standards and guidelines recommend that for the main living spaces/living rooms of residences, a minimum ADF of 1.5% should be achieved, with a 1% ADF for bedrooms and a 2% ADF for kitchens. The applicant has referred to these targets in their assessment, as well as assessing the living/kitchen/dining rooms against both the 1.5% and 2% ADF target. ADF targets for the three studio apartments are not outlined by the applicant, and I consider the 2% ADF would be a reasonable initial target for these units. The applicant also refers to Irish standards (IS EN 17037:2018) and updated British standards (BS EN 17037:2018), as providing daylight standards for buildings. Notwithstanding provision within BRE 209 allowing developers or Planning Authority's to use different target values in special circumstances, given that 'special circumstances' have not been identified and as the BRE 209 and BS 8206-2: 2008 standards are referred to in the statutory plan for this area and in relevant guidelines, it would be more prudent to rely on the BRE 209 and BS 8206-2: 2008 standards.

12.4.38. The applicant states that all 545 kitchen/living/dining rooms proposed in this development were tested as part of their detailed daylight access assessment. The results of ADF testing for all bedrooms have also been presented, and the applicant asserts that their testing revealed a 97% pass rate for each bedroom (between 0.47% and 11.24% ADF) and a 67% pass rate for each kitchen/living/dining rooms

(1.0% to 8.69% ADF) when using the 2% ADF value. I am satisfied that the applicant has undertaken extensive testing of the lighting to the apartments with results of same provided. In total 15% of the rooms would fall short of the optimum ADF targets. The lowest ADF test results relate to kitchen/living/dining rooms and bedrooms primarily serving lower-level apartments overlooking internal courtyards, particularly in corner settings with only two rooms non-compliant with the ADF target value from seventh-floor level and above.

12.4.39. While it would be more preferable for the ADF targets to be achieved for all internal living areas, as highlighted in section 12.4 above, the BRE 209 and BS 8206-2: 2008 guidance allow for flexibility in regard to targets and do not dictate a mandatory requirement. Where shortfalls occur with respect to the 2% target ADF to kitchen/living/dining rooms, the applicant has asserted that if a 1.5% target ADF was assigned to kitchen/living/dining rooms, the fail rate would fall from 33% to 12%, or 6% of all rooms in the development. The Planning Authority recommend that the 2% ADF target value is achieved for the proposed living/kitchen/dining areas and I also note that this should be the target value. The applicant also highlights that there are various compensatory measures allowed for in the New Apartment Guidelines where daylighting provisions are not fully met and it is asserted that the stated shortcomings in ADF targets can be compensated for by virtue of the extent of apartments greater than the minimum standards, including floor areas and dual aspect provisions, as well as the 40% surplus provision of communal open space. Notwithstanding the fact that 40% surplus external communal open space would not be provided, I am satisfied that it is reasonable to conclude that the other apartment features comprising additional floor areas would have positive implications in terms of the achievement of daylight provision and would also provide compensatory levels of amenity for future residents. Alterations to the development to address shortfalls in ADF have been suggested by the Planning Authority, incorporating a reduction in the heights of the finger elements to the apartment blocks by two storeys. However, I am satisfied that this has not been justified nor is it clear that such a measure would in fact improve lighting to those apartments with rooms below the target ADF values. Furthermore, in this regard I note that ADF is only one of a wide spectrum of interrelated requirements in the successful design of new apartments, with room sizes and layouts, window types and positions, and the provision of balconies

interacting with the achievement of ADF values. In this regard a reasonable balance needs to be achieved to ensure an appropriate standard of living accommodation and amenities for residents, and I am satisfied that this would be achieved and amendments to the scheme to provide for additional compliance with ADF targets values has not been sufficiently justified and would not be necessary.

12.4.40. The BRE 209 and BS 8206-2: 2008 guidance allow for flexibility in regard to targets and do not dictate a mandatory requirement. The New Apartment Guidelines recognise that a discretionary approach should be taken with regard to compliance with daylight provision in certain circumstances and I am satisfied that such an approach would be reasonable given the limited shortfall in ADF relative to the standards for 15% of the total tested rooms, as well as the stated compensatory measures to ensure other residential amenity standards are exceeded.

12.4.41. In conclusion, in measuring the adequacy of the provision of daylight by the proportion of rooms meeting ADF standards, I am satisfied that the lighting to the proposed development would adequately meet the residential amenity levels for future residents.

Sunlight Provision

12.4.42. British Standard (BS) 8206-2:2008 recommends that interiors where the occupants expect sunlight should receive at least one quarter (25%) of annual probable sunlight hours (APSH), including at least 5% of APSH during the winter months. As part of their Daylight, Sunlight and Overshadowing Study the applicant has also calculated the expected levels of APSH for the main windows serving habitable rooms within the proposed development, including for the winter months.

12.4.43. I acknowledge that an updated BS EN 17037:2018 'Daylight in Buildings' guide replaced the BS 8206-2: 2008 in May 2019 (in the UK) and an Irish Standard (IS) EN 17037:2018 has also been published, however, I am satisfied that these guidance documents do not have a material bearing on the outcome of my assessment and that the relevant guidance documents remain those referenced in the Building Heights Guidelines (i.e. BRE 209 and BS 8206-2: 2008).

12.4.44. Of the 786 window points tested, a total of 396 points or 50%, would meet the target recommended APSH values over the annual period and 551 points or 70% would meet the target recommended APSH values during the winter period when sunlight

is most valuable. Where windows do not meet this recommendation, this is predominantly as a result of their orientation with south-facing windows much more capable of achieving the targets. In developing sites at the scale proposed, it is not possible for all rooms to feature south-facing windows and discretion needs to be applied when assessing such proposals against the guidance.

12.4.45. As noted above, flexibility needs to be applied when using the relevant guidance document, particularly in the context of redeveloping the site to accommodate a sustainable level of development and I am satisfied that the sunlighting to the proposed development would adequately meet the residential amenity levels for future residents.

Privacy and Overlooking

12.4.46. In discussing standards specifically with respect to houses, the Development Plan refers to the traditional standard separation distance requiring 22m between the rear of two-storey houses and provisions for this to be relaxed where it can be demonstrated that the development is designed in such a way as to preserve the amenities and privacy of adjacent occupiers. While not directly applicable in assessing new apartment developments, this traditional standard can be used as a guide in assessing the adequacy of the proposals with respect to the potential for excessive overlooking between the proposed apartments and the permitted apartments.

12.4.47. Overlooking of the proposed development from the existing commercial and industrial lands adjoining the site to the south would not be problematic as this site only features open yards at present. There would be substantial minimum separation distances of 25m across the buffers provided by the Naas Road, the Carriglea industrial estate access road and an electricity pylon corridor to the west to ensure the proposed apartments would not be subject of excessive direct overlooking from neighbouring lands to the west, north and east. Proposals for residential buildings have been permitted for the lands to the south in the Nissan site (DCC ref. 4238/19), as well as phase 2 of Carriglea industrial estate (ABP ref. 311606-21). Permitted Block L in phase 2 of Carriglea industrial estate, closest to the subject development would be over 30m from block F on the subject site, therefore, excessive direct overlooking would not be likely to arise in future should

the developments proceed. Permitted blocks F, G and H on the Nissan site to the south, would be positioned in a staggered arrangement relative to the proposed finger elements projecting south from the main apartment block on the application site. The closest part of these permitted blocks on the Nissan site would be 11.5m from the nearest finger block elements on the subject site, which would be the most sensitive part of the subject proposals in terms of potential for overlooking. With the exception of the south-facing elevations to the finger blocks B, C and D, all other proposed south-facing elevations would be over 22m from the boundary with the Nissan site and I am satisfied that excessive direct overlooking would not be likely to arise. For the finger block elements close to the Nissan site, I note that these would feature five-storeys, as well as secondary south-facing bedroom windows and landing windows to internal circulation halls. I am satisfied that the staggered positioning of the blocks relative to the permitted blocks to the south ensures that the potential for excessive direct overlooking would not arise between the permitted and proposed developments.

12.4.48. In general, there is sufficient space fronting the buildings to ensure that the privacy of a majority of the residents on the ground floor would not be substantially undermined, and there would be 900mm-high vertical vents along the southern elevations to the finger blocks to create defensible space between the walkway and the ground-floor apartments in the finger blocks. The provision of planting within landscaped privacy strips to serve as defensible space in locations fronting terraces and windows throughout the development has been proposed, including where apartments open onto internal courtyards and public footpaths.

12.4.49. The Planning Authority require the omission of the proposed single-storey pavilion, which did not form part of the previously permitted proposals (ABP ref.304383-19), and has been proposed to be sited in an area between finger block D and block E, separating communal courtyard 4 and the public open space. This would be used as a café/restaurant with outdoor seating areas. The Planning Authority's concerns regarding this café/restaurant unit relate to the impact of this unit on the residential amenity of adjacent ground-floor apartments, as a result of overlooking and noise, and also as the unit would result in the loss of space previously permitted as an area of communal open space. As noted above, I am satisfied that sufficient communal open space relative to the requisite standards has been provided for. The

restaurant/café unit would be positioned a minimum of 8m from the down ramp to block E, and between 6m and 8m from apartments in block E. The external terrace area associated with the restaurant/café unit would be 5m from the external terrace serving apartments (0.A21 and 0.A22). I am satisfied that the provision of a restaurant/café unit within this residential courtyard space would not be amenable to neighbouring apartment residents, particularly due to its proximity to ground-floor apartments with substantial potential for excessive direct overlooking into these apartments and their private amenity space from the restaurant/café and the associated space. Furthermore, this restaurant/café use would result in unnecessary nuisance for residents and should be omitted from the scheme.

12.4.50. The applicant has also proposed four communal spaces at roof terrace level on the eighth floor of the apartment block, which the Planning Authority have raised concerns regarding, particularly with respect to the impact on adjoining private amenity spaces (serving apartments units 8A37, 8A24, 8A23, 8A12, 8A11, 8A04 and 8A03) adjoining onto these communal areas. The landscape plan for these communal terrace spaces (drawing no.18-489-SDA-PD-DR-L08-002) reveals that raised planters would be situated along the majority of the perimeter to the private terraces, although there would be some scope for the privacy of residents using the terraces to be undermined by other residents when entering and exiting the buildings. With the provision of vertical privacy screening onto the sides of the private terraces adjoining the walkways I am satisfied that there would be limited scope to overlook neighbouring apartments. This could be addressed via the attachment of a condition in the event of planning permission being granted for the proposed development.

12.4.51. Separation distances of greater than 22m would be primarily provided for between the windows of the apartments in the finger block elements overlooking the surface level communal amenity spaces. Where separation distances below the traditional 22m, as referred to above, would not be achievable between the finger blocks and the main block A, the opposing windows would not directly overlook each other. At the juncture of blocks windows are set away from corners to avoid potential loss of privacy between units. I also recognise that between 10.1m to 14.3m separation distances would only be provided for the apartments overlooking the roof terrace communal amenity spaces. I am satisfied that the landscaping, layout and function

of the communal amenity space would serve as a visual buffer between the directly facing apartments in this scenario.

Wind and Microclimate

12.4.52. The applicant's Pedestrian Comfort Computational Fluid Dynamics (CFD) Analysis provides extensive information on how the model to test for pedestrian comfort was generated, as well as the illustrated results of same. The Elected Members of the Planning Authority refer to the potential creation of a wind corridor along the Naas Road alongside other permitted developments. The applicant's model accounted for the permitted development on the Nissan site to the south. Based on the Lawson test, the threshold mean hourly wind speed not to be exceeded for more than 5% of the time is 4m/s for comfortable sitting purposes and 6m/s for standing purposes. The Planning Authority raised some concerns regarding the wind impacts on a number of the private amenity terraces at eighth-floor level, however, I am satisfied that the modelling presented by the applicant does not suggest that the comfort of residents would be compromised by wind impacts. Within the applicant's report it is calculated that 90% of the private balconies would meet the requirements of the Lawson's comfortable sitting criterion for the full year and that the wind speed was lower than the 4m/s wind speed threshold for more than 95% of the year. The high-level balconies on the west façade of blocks C, D and E would be affected by the prevailing westerly and south-westerly winds, but no mitigation was proposed. The analysis of the ninth-floor apartment terraces and balconies calculated that they would be marginally above the Lawson threshold of 4m/s wind speeds for sitting comfort, but under the 6m/s wind speed for standing comfort. The model does not suggest significant wind impacts for the terraces onto the communal roof terraces.

12.4.53. The surface-level and roof-level communal open spaces, as well as the public open space are calculated by the applicant to demonstrate good compliance with the requirements of the Lawson's sitting and standing comfort criterion. Furthermore, concerns with respect to downdrafts were not calculated to arise. The information provided clarifies that significant microclimate impacts would be unlikely to arise or to warrant refusal of permission or amendments to the scheme.

Resident Support Facilities, Services and Amenities

- 12.4.54. The New Apartment Guidelines promote the provision of communal rooms for use by residents in apartment schemes, particularly in larger developments. Under SPPR 7 of the New Apartment Guidelines, build-to-rent apartment schemes must provide resident support facilities related to the operation of the development. It is also necessary to provide resident services and amenities under SPPR 7 of the New Apartment Guidelines, while the Development Plan requires common areas, shared work-space, multi-function events spaces, and all associated resident support facilities to accompany build-to-rent developments.
- 12.4.55. As part of the project it is proposed to provide resident support facilities in the form of a reception/concierge with informal seating area onto the Naas Road frontage and waste management areas at basement level. The applicant's resident services and amenities would include a multi-functional communal amenity / co-working space and a multi-functional sports hall / communal fitness suite at second-floor level. Further amenity space provisions at second-floor level onto the Naas Road would include a wellness area spa, a library and an internal children's play area. At eighth-floor level it is proposed to provide a second multi-purpose bookable room, two communal facilities and a multi-functional space. The applicant's Operational Management Plan outlines how these spaces would be managed and operated.
- 12.4.56. The overall provision of resident support facilities, services and amenities would amount to approximately 3sq.m floor space per resident, which I note would be in keeping with the average for other recently permitted build-to-rent developments in the vicinity and the wider city.
- 12.4.57. In summary, I am satisfied that the proposed communal facilities and communal open space would be comparable with the provision in similar size recently permitted residential developments of this nature, and would be suitable to serve the development and in accordance with the relevant standards. Other facilities proposed as part of the subject development, which would be available to residents and the wider community, include a childcare facility and various commercial uses.

Waste Management

- 12.4.58. The applicant has submitted an Operational Waste and Recycling Management Plan, setting out how the type and storage volumes for waste have been calculated

for the apartments and the non-residential uses, including the medical centre, as well as details of how waste operators would service the site. This plan sets out that bin stores to serve future residents would be provided at basement level, while bin stores for the commercial units would be provided adjoining these units at ground-floor level and block F (Part V) apartments would have a separate surface level bin store on the southeast boundary. I note that the Waste Regulation and Enforcement Unit of the Planning Authority have not objected to the waste element of the proposed development and have requested the attachment of standard conditions with respect to waste collection. I am satisfied that sufficient provision for refuse collection, comparable with developments of a similar scale and nature, would appear to be provided as part of the development and further details relating to waste management can be provided as a condition in the event of a grant of permission.

Childcare Facilities

- 12.4.59. Observers assert that the proposed provision of childcare facilities would materially contravene the Development Plan, although it is not stated how this would arise. Policy SN17 of the Development Plan looks to facilitate childcare facilities in certain settings and appendix 13 of the Development Plan provides guidelines for childcare facilities stating that for new residential development proposals, a benchmark of one childcare facility for every 75 units is recommended. Deviation from this shall have regard to the make-up of the proposed development and the results of any childcare needs assessment carried out for the area. The applicant's statement of consistency with planning policy addresses the standards within the 'Childcare Facilities - Guidelines for Planning Authorities' (2001), including the requirement for a childcare facility with space for 20 children for every development comprising 75 dwellings.
- 12.4.60. The overall development would contain a total of 239 studio and one-bedroom apartments. Based on the provisions within the New Apartment Guidelines and the Childcare Facilities Guidelines, including an allowance to omit the studio and one-bedroom units from calculations, the applicant asserts that the development would generate a requirement for 85 childcare spaces.
- 12.4.61. A childcare facility with a gross floor area of 379sq.m is proposed at the western end of the ground floor to block A with an external enclosed courtyard play area to the

rear measuring 151sq.m. The applicant asserts that this would have capacity to cater for 76 to 126 children based on the area standards within the Childcare Facilities Guidelines and, as such, could also cater for additional demand in the immediate area.

12.4.62. The Planning Authority did not object to the applicant's proposed provision of childcare facilities to serve the development and asides from the additional parking support services that I address below, they do not require amendments to this part of the development. Dublin City Childcare Committee has not responded to consultation regarding the application. I am satisfied that the level of childcare provision provided for in the development would be acceptable relative to the standards, the site context and the proposed unit types and would comply with policy SN17 of the Development Plan, as well as the provisions of the New Apartment Guidelines and the Childcare Facilities Guidelines. The proposals would not contravene the Development Plan in relation to the provision of childcare facilities.

Social/Community Infrastructure

12.4.63. Policy SN5 of the Development Plan requires a social audit to accompany applications for development of this scale, as well as implementation and phasing programme details. The Elected Members query whether there would be sufficient education spaces to accommodate the additional population. The applicant has provided an audit report of local social and community infrastructure, identifying health facilities, schools and third-level education facilities, sports and recreation facilities and other community and cultural facilities within approximately a 15-minute walk or 1km to 1.5km distance of the site. The audit broadly identifies the main services and resources in the immediate area, following the guidance contained within the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009). The vast bulk of existing health, education, recreational and community services are within areas to the east of the site, as the areas to the immediate west primarily comprise of employment lands. Based on demographics and the nature of the development the applicant estimates that the development would create demand for 33 primary school and 24 post-primary school places, and that there is existing provision in neighbouring schools to accommodate this increased demand. The proposed development would provide a range of supporting residents' community facilities, as discussed above, and commercial

facilities that would benefit the occupants of the build-to-rent scheme, including a medical centre, office space, café, restaurants, shops and a childcare facility.

12.4.64. Increased housing in locations such as this, ensure the efficient and increased use of existing and planned services, including public transport, shops, schools and other social infrastructure. Such services, whether commercial or social, are dependent on a critical mass of population to justify the establishment of additional services or for them to become viable. In the immediate and wider environs of the site there are shops, medical facilities, parks, open spaces and schools, all of which would benefit from a development that is a comfortable walking or cycling distance from the site. The nature of the development is such that the non-residential elements of the development would be provided alongside the residential units. The Planning Authority do not require any additional facilities to those proposed to be provided as part of the development and I am satisfied that from a planning policy perspective there is not a necessity to provide any additional non-residential uses on the site. I am satisfied that the scale of the retail and commercial uses would be appropriate having regard to the context of the site within the Local Area Plan lands.

12.4.65. I am therefore satisfied that the development would be reasonably well serviced in respect of social and community infrastructure, the details submitted are in compliance with policy SN5 of the Development and the site context should not inhibit the subject proposals.

Building Lifecycle and Management

12.4.66. As required within the New Apartment Guidelines, a Building Life Cycle Report assessing the long-term running and maintenance costs and demonstrating the measures that have been considered by the applicant to manage and reduce costs for the benefit of residents, has been included with the planning application. Detailed measures, including sinking fund calculations, as well as running cost-saving measures, have been provided within this report. Prior to the lease of individual units, the developer would have to achieve compliance with the terms of the Multi-Unit Development Act 2011, inclusive of the establishment of a development specific Owners' Management Company.

Sustainability and Energy Efficiency

12.4.67. Objective CCO12 of the Development Plan promotes high energy-efficiency standards in existing and new developments. A Sustainability Report has been submitted with the application outlining specific mechanical and electrical measures to address energy efficiency. A series of measures are listed in the report to address energy savings in the development. According to the applicant a combined heat and power plant will be located in the basement. This system will provide heating and hot water to individual apartments, the common areas and facilities, as well as the commercial units. Each apartment or unit would be individually metered and will have their own thermostats for controlling the service within their unit. According to the applicant, optimisation of lighting, heating and ventilation technologies, together with high levels of insulation, air tightness and photovoltaic panels will make the building fully compliant with the requirements of Part L of the building regulations and nearly zero-energy buildings (NZEB). All apartments are to achieve an A2/A3 building energy rating.

12.4.68. I am satisfied that the information provided with the application reveals that due consideration for energy efficiency has been undertaken as part of the design of the development, in compliance with the Development Plan provisions. Further consideration of energy efficiency matters will be evaluated under a separate code, including Part L of the building regulations.

Conclusion

12.4.69. In conclusion, subject to conditions, I am satisfied that the proposed development would provide a quality and attractive mix of apartments, open space and communal facilities, meeting the relevant design standards and providing a suitable level of amenity for future residents.

12.5. Impacts on Local Amenities

12.5.1. When considering applications for development, including those comprising apartments, the Development Plan requires due consideration of proposals with respect to the potential for excessive overlooking, overshadowing and loss of sunlight or daylight. Policy H2 of the Local Area Plan seeks to ensure that all new housing delivers high-quality residential environments and protects the amenity of

existing residential development in the plan area and its environs. The Planning Authority has not identified any impacts on neighbouring amenities.

- 12.5.2. The nearest existing residential buildings are those at the junction of the Old Naas Road and the Naas Road, including two detached houses, one of which is named Naisetra House; a Protected Structure. These houses are 100m to the northeast of the application site, therefore, these houses and other existing residential properties further northeast and in the wider area are a substantive distance from the location of the proposed development from a residential amenity perspective.
- 12.5.3. The nearest permitted residential buildings, include blocks F, G and H on the Nissan site to the south, which would be 11.5m from the nearest finger block elements on the subject site. The Nissan site blocks would appear to be permitted to be constructed with a finished-floor level 3m above that of the proposed apartment blocks on the application site. The finger blocks are proposed to drop down to five storeys where closest to the permitted six to eight-storey blocks F, G and H in the Nissan site.
- 12.5.4. Ten-storey block F would be the closest block in the subject proposals to the permitted eight-storey block L directly to the west in the Carriglea industrial estate (phase 2) development. These blocks would be separated by approximately 30m and the subject proposals would appear to be on slighted higher ground when compared with block L of the Carriglea industrial estate development. The resultant difference in roof parapet height between proposed block F and the permitted block L would be approximately 7m.
- 12.5.5. Details to show the context of the proposed blocks relative to other permitted residential developments are provided on a submitted contiguous elevation drawing (no. P18-062D-RAU-ZZ-ZZ-DR-A-ELE-32210).

Overlooking and Loss of Privacy

- 12.5.6. Potential for excessive direct overlooking or significant loss of privacy could not arise with existing developments, as well as the Carriglea industrial estate development, given the separation distances described above.
- 12.5.7. Consequent to the staggered block layout of the permitted Nissan site development relative to the proposed finger block layout, separation distances of greater than 22m are largely achieved between the directly facing windows within the proposed

development and the permitted Nissan site development. A separation distance of less than this would only occur between the south-facing windows of apartments in proposed finger block C and the north-facing windows of permitted block H on the Nissan site. The subject apartment windows consist of secondary bedroom windows to five apartments (0.A13, 1.A15, 2.A21, 3.A27 and 4.A30) approximately 11.5m from permitted block H, as well as bedroom and living room windows to two apartments (5.A29 and 6.A29) approximately 13m from permitted block H.

12.5.8. I am satisfied that the separation distances that would be achieved between the proposed and permitted neighbouring residences would be typical for a developing urban setting and the provision of landscaping and intervening public routes between residential blocks on and off the site would offer additional visual distraction and buffers between residences. I am satisfied that no additional measures would be required to reduce the potential for overlooking from the proposed development. Furthermore, the south-facing windows on the finger blocks would provide an element of passive surveillance over the public routes situated between the Nissan site and the application site.

12.5.9. The proposed development would not substantially inhibit the future development potential of neighbouring lands, including the Z14 zoned lands adjoining to the southwest on the playing fields, particularly given the boundary setbacks and the intervening routes. I have considered the impacts on the privacy for residents of the proposed apartments separately above in section 12.4.

Outlook and Overbearing Impacts

12.5.10. The proposed development would be visible from the private balconies and internal areas of permitted apartments bordering the site and would change the outlook from these permitted apartments. Having visited the area and reviewed the application documentation, including CGIs, I consider that the visual impact that would arise for residents with views of the development, would be reasonable having regard to the separation distances, the currently evolving and restructuring urban landscape, as evidenced in recent permissions and developments in the area, and as a contemporary development of this nature would not be unexpected in this area owing to the planning history of the site and the development objectives for the site, as contained in statutory plans for this area.

12.5.11. A key consideration is whether the height, scale and mass of the proposed development and its proximity to neighbouring properties is such that it would be visually overbearing where visible from neighbouring properties. The proposed development clearly exceeds the prevailing lower commercial building heights of the area, but would broadly follow the recently permitted residential building heights of the area. The most sensitive existing and permitted building height differences and the minimum separation distances between these buildings are detailed above.

12.5.12. Views 5 and 6 of the applicant's CGI and photomontage booklet illustrates the appearance of the development closest to the Nissan site development. I am satisfied that the proposed development would not be overly prominent when viewed from the nearest apartments with an open outlook and sky view maintained for neighbouring apartments. The stepped design of the blocks coupled with the level of setback from the permitted apartments, is such that where visible from neighbouring permitted apartments the proposed development would not be excessively overbearing.

Impacts on Lighting - Sky and Sunlight

12.5.13. In assessing the potential impact on light access to neighbouring properties, two primary considerations apply, including the potential for excessive loss of daylight and light from the sky into existing residences through the main windows to living rooms, kitchens and bedrooms, and the potential for excessive overshadowing of existing external amenity spaces, including parks and gardens.

12.5.14. The applicant has provided a Sunlight and Daylight Access Analysis relying on the standards of the BRE 209 and BS 8206-2 documents, which provides an assessment of the effect of the proposed and previously permitted development on the vertical sky component (VSC) and APSH achievable at neighbouring windows.

12.5.15. The BRE guidance on daylight is intended for rooms in adjoining houses where daylight is required, including living rooms, kitchens and bedrooms. When considering the impact on existing buildings, criteria is set out in figure 20 of the Guidelines and this can be summarised as follows:

- if the separation distance is greater than three times the height of the proposed building above the centre of the main window, then the loss of light

would be minimal. Should a lesser separation distance be proposed, further assessment would be required;

- if the proposed development subtends an angle greater than 25° to the horizontal when measured from the centre line of the lowest window to a main living room, then further assessment would be required;
- if the VSC would be greater than 27% for any main window, enough skylight should still be reaching this window and any reduction below this level should be kept to a minimum;
- if the VSC with the development in place is less than 0.8 of the previous value, occupants would notice a reduction in the amount of skylight;
- in the room impacted, should the area of the working plane that can see the sky be less than 0.8 the previous value, then daylighting is likely to be significantly affected. Where room layouts are known, the impact on daylight distribution in the existing building can be assessed.

12.5.16. The tests above are a general guide only and the BRE guidance states that they need to be applied flexibly and sensibly with figures and targets intended to aid designers in achieving maximum sunlight and daylight for residents and to mitigate the worst of the potential impacts for existing residents. It is clear that the guidance recognises that there may be situations where reasonable judgement and balance needs to be undertaken cognisant of circumstances. To this end, I have used the Guidance documents referred to in the Ministerial Guidelines to assist me in identifying where potential issues and impacts may arise and also to consider whether such potential impacts are reasonable, having regard to the need to provide new homes within the Dublin metropolitan area, the need for increased densities within zoned, serviced and accessible sites and the need to address impacts on existing residents, as much as is reasonable and practical.

12.5.17. The VSC for 187 windows along the northern elevation of blocks F, G, H and H2, as well as the east elevation of block B in the permitted Nissan site development has been calculated, with the existing development on the application site, with the previously permitted development on the application site (ABP ref. 304383-19) and with the proposed development in place. This was also undertaken for 77 windows on the nearest previously permitted block L in phase 2 of the Carriglea industrial

estate (DCC ref. 4244/15), 25 existing windows serving commercial buildings on the opposite side of the Naas Road, as well as seven windows to the existing nearest residential houses over 100m to the northeast of the site. I am satisfied that the VSC assessment has been targeted to the existing neighbouring windows, rooms and houses that have greatest potential to be impacted and would be representative of the worst-case scenario. I recognise that the most recently permitted development on the Carriglea industrial estate (ABP ref. 311606-21) has not been tested, however, there would not be a substantial difference in the test results owing to the similarities in the previously permitted development (DCC refs. 2176/18 and 2203/18) and more recently permitted development (ABP ref. 311606-21).

12.5.18. With the exception of five windows in the permitted Nissan site development, the level of change in VSC for all the tested windows is estimated as being either above the 0.8 ratio of the proposed VSC to the baseline VSC or with the proposed development in place the VSC value for the tested windows would be greater than 27%. Given the presence of larger than conventional windows and as per the provisions of section 2.1.6 of the BRE Guide, VSC values of between 15% and 27% are considered to allow for adequate daylight in the permitted Nissan site development. These windows would, therefore, be considered to be within the recommended guidance thresholds.

12.5.19. Baseline VSC values of between 23.25% and 31% are outlined in section 9 of the applicant's Sunlight and Daylight Assessment Report for five tested ground and first-floor windows in blocks F and H of the Nissan site development. Estimated VSC values within a range of change amounting to 42.2% to 49.6% of the previous existing value are calculated and, therefore, below the recommended 0.8 VSC ratio value when compared with the existing situation. The VSC value for these five windows within the range of 10.4 and 14.93, would also come marginally below the 15% sought based on the provisions of section 2.1.6 of the BRE Guide. The applicant asserts that only a minor reduction in daylight impact to the existing and permitted neighbouring buildings would arise from the proposed development.

12.5.20. As part of the VSC study and in accordance with the assessment criteria within the BRE Guidelines, the applicant has also calculated the effect on the APSH for the existing living room windows either within 90 degrees due south of the development, to the north, east, or west of the proposed development or within 20 degrees due

south if the existing window would have a VSC greater than 27%. Consequently, only the existing houses to the north east on the Naas Road and the permitted apartments in Carriglea industrial estate required assessment for sunlight impacts.

12.5.21. The BRE Guidelines state that in order for a proposed development to have a noticeable effect on the APSH of an existing window, the following would need to occur:

- the APSH value drops below the annual (25%) or winter (5%) guidelines and;
- the APSH value is less than 0.8 times the baseline value and;
- there is a reduction of more than 4% to the annual APSH.

12.5.22. The applicant's study indicated that with the development in place APSH values of 41.5% to 75% and winter APSH values of 18.6% to 28% would be achieved for the 34 tested windows. These values are well in excess of the initial target BRE APSH annual values of 25% and winter values of 5%. A noticeable effect in lighting to these tested windows would not arise.

12.5.23. Consequent to the limited minor impacts, I am satisfied that the lighting impacts arising from the proposed development for neighbouring properties would not be sufficiently adverse to require amendments to the proposed development, particularly having regard to the limited shortfall in lighting levels to the tested windows, the objectives within the Local Area Plan and land use zoning objectives in the Development Plan to provide for substantive redevelopment of this site, the flexibility afforded in the BRE 209 and BS 8206-2 guidance and the discretion offered by Section 3.2 of the Building Heights Guidelines and Section 6.6 of the New Apartment Guidelines. Accordingly, a refusal of permission or modifications to the proposed development for reasons relating to lighting to neighbouring properties would not be warranted.

Nuisance

12.5.24. The Planning Authority assert that the nature of the development is such that significant levels of air, noise and light pollution would not arise and a condition can be attached with respect to the control of noise and air quality. Observers assert that the Construction and Waste Management Plans are insufficient with respect to risk to human health, pollution and potential nuisance.

12.5.25. A Construction Environmental Management Plan and Construction and Demolition Waste Management Plan was submitted with the application, including measures to control noise, dust and traffic during the construction period for the project. Mobility measures to address parking would be required by the Planning Authority during the demolition and construction phases. With the proposed reductive, control and monitoring measures to be put in place for the construction phase emissions and compliance with the relevant standards, the proposed development would not have substantial impacts on neighbouring residents and properties, and any such impacts would be temporary, including impacts associated with the demolition works. As is normal practise and as is required by the Environmental Health Officer from the Planning Authority, a final Construction and Environmental Management Plan for the project can be agreed with the Planning Authority in the event of a grant of planning permission, and I am satisfied that the adherence to such a plan would ensure the construction activity is carried out in a planned, structured and considerate manner that minimises the impacts of the works on local residents and properties in the vicinity.

Conclusions

12.5.26. In conclusion, sufficient information has been provided with the application to allow a comprehensive and thorough assessment of the impacts of the proposals on neighbouring amenities, as well as the wider area. I am satisfied that the proposed development would not result in excessive overshadowing or overlooking of neighbouring properties and would not have excessively overbearing impacts when viewed from neighbouring residential properties. Accordingly, the proposed development would comply with the objectives for this site, as contained in the Local Area Plan and the Development Plan, and the proposed development should not be refused permission for reasons relating to the resultant impacts on neighbouring amenities.

12.6. Traffic and Transportation

12.6.1. The Planning Authority suggested the attachment of a number of conditions to address traffic arising from the proposed development, as well as parking requirements. The observers do not consider the site to be well served by public transport.

Access and Connectivity

- 12.6.2. The site is currently only accessible from a vehicular perspective off Carriglea industrial estate access road, which the Planning Authority note to be a private road, and as part of the proposed development two vehicular accesses would continue to be provided off Carriglea industrial estate access road, one of which would serve the front surface-level commercial car park and the rear access would serve the residential basement car park. As part of the development the applicant is proposing a pedestrian crossing along the junction of Carriglea industrial estate access road with the Naas Road, as well as the provision of a two-way cycle lane on the western side of Carriglea industrial estate access road, following the rear and western boundaries of the site. Pedestrian routes would also be provided connecting in with the Naas Road and permitted routes on neighbouring sites, including the Nissan site (DCC ref. 4238/19) and phase 2 of Carriglea industrial estate (ABP ref. 311606-21).
- 12.6.3. Neither the Planning Authority nor other parties have raised any issues with the access arrangements or the proposed layout of the roads and other routes. The applicant has provided an array of engineering drawings and reports clarifying the access arrangements and transport options that would be available in the immediate vicinity. The Planning Authority note the improvements to pedestrian permeability off the Naas Road, the pedestrian-priority measures at entrance locations and the provision of a signalised crossing at the road junction. The Planning Authority also refer to the recommendations within the applicant's Stage 1 Quality Audit and Road Safety Audit, as well as the 'autotrack' drawings clarifying manoeuvrability for refuse and emergency vehicles. The Planning Authority questions what measures would be employed to prevent overspill parking at turning areas, such as the western end of the front parking area along the Naas Road. I am satisfied that this can be finalised as part of the car parking management plan to be submitted as a part of a condition in the event of a grant of permission for the proposed development.
- 12.6.4. The applicant's Traffic and Transport Assessment provides details of public bus services and Luas services currently available in the environs of the site, as well as future proposals. A DMURS Compliance Statement is included with the application addressing the key transport design principles for the development, including connectivity and permeability across the site, multi-functional streets and the multi-disciplinary design approach undertaken for the project.

12.6.5. As noted in section 12.3 above, based on the information available, I am satisfied that the site would have good access to amenities via public transport and consultation with TII, the National Transport Authority (NTA) and other parties has not highlighted concerns regarding the existing capacity of public transport neighbouring the site. I accept that capacity on public transport infrastructure requires regular monitoring. Under the terms of the Dublin Transport Authority Act 2008, the NTA is required to review the Transport Strategy for the Greater Dublin Area and I note that a Draft Greater Dublin Area Transport Strategy 2022-2042 has been published, with policy measures such as 'Measure BUS5 – Bus Service Network Monitoring and Review' outlining the intention of the NTA to continually monitor the demand for bus services in the Dublin area as part of the roll-out of the new service network and as part of the monitoring and periodic review of the Transport Strategy, and to enhance or amend the service network as appropriate. I also note that as part of 'Measure LRT10 – Enhance Priority for Trams', the NTA, alongside TII and the relevant Local Authorities, will enable capacity on existing Luas lines to expand in line with any increase in future demand. While the Strategy is currently in draft format, I am satisfied that this reveals the intention, and the ongoing transport strategy approach, to constantly ensure public transport serving the greater Dublin area would have capacity to meet demand, whether this be via reduced or increased levels of service.

12.6.6. The Local Area Plan identifies a new city-wide green route running along Carriglea industrial estate access road and leading southeast into the grounds of Drimnagh Castle. There would also be an arm of this route following the southern boundary of the application site connecting Carriglea industrial estate road with Walkinstown Avenue. A proposed local green link is also identified in the Local Area Plan adjacent to the western boundary of the site leading from Naas Road to the Nissan site. The routes provided as part of the proposed development would meet the Local Area Plan requirement to provide for all of these new routes. The layout of the pedestrian and cycle routes would benefit from passive surveillance, which would be available from the proposed apartments overlooking these routes and from other permitted developments, if they were constructed. Permission granted for the adjoining development to the southeast on phase 2 of the Carriglea industrial estate site (ABP ref. 311606-21) provides for cycle and pedestrians route addressing the

Local Area Plan objectives, as well as tying in with the previous permission on the subject site (ABP ref. 304383-19). The proposed cycle and pedestrian route along Carriglea industrial estate access road, includes a kink in its alignment to facilitate turning of refuse vehicles and the permission for Carriglea industrial estate phase 2 development (ABP ref. 311606-21) includes condition no.2(g) requiring a revised pedestrian and cycle route connecting into Carriglea industrial estate road and the development on the subject site. The Planning Authority has sought the omission of the surface-level perpendicular car park space adjacent to proposed block F to reduce the impact on the footpath and cycle lane and to facilitate an improved turning area for refuse vehicles. This would appear reasonable and necessary based on the substandard alignment of the proposed footpath and cycle lane in this area. In the interest of providing coherent, connected and cohesive pedestrian and cycle routes in this location, I am satisfied that a condition omitting the surface car park space should be attached in the event of a grant of permission for the subject development and requiring a revised pedestrian and cycle route connecting with the Carriglea industrial estate development.

Car Parking Standards

- 12.6.7. The applicant is proposing a total of 270 car parking spaces to serve the development, 218 of which would be at basement level serving the residential units. The Planning Authority refer to the ratio of car parking per residential unit (0.4) as being similar to that previously permitted on site (0.41). Observers consider the proposed development to materially contravene car parking provisions of the Development Plan. The applicant considers the provision of car parking to serve the residential units to be appropriate with reference to car ownership trends. Based on the Development Plan standards and the number of proposed apartments, a maximum of 545 car parking spaces would be permissible solely for the residential element of the proposed development, therefore, the proposed provision would be well within the prescribed limits and would not materially contravene the Development Plan.
- 12.6.8. A total of 52 car parking spaces are identified at surface level to the front of the site serving the commercial element of the proposed development. Two 'taxi set downs / loading bays' are also proposed. The applicant states that the commercial element of the development would attract a maximum of 38 car parking spaces based on the

proposed floor areas or rooms, and the Development Plan standards. The Planning Authority note that the proposed provision of commercial parking would exceed the maximum Development Plan standards for same and they have requested a reduction in surface-level car parking to facilitate improved visitor cycle parking. The applicant asserts that the provision would be justifiable based on the potential use of the commercial units by residents of the scheme. Floor plans for the medical centre element of the proposed development have not been provided and the applicant has assumed that this would provide for 11 consulting rooms, which has not been contested and would appear reasonable given the area of the facility (521sq.m). The applicant also used the incorrect parking standard (one space per 275sq.m) for the restaurant space, which should be based on one space per 150sq.m of restaurant space. Notwithstanding this, the proposed provision of car parking (52) would exceed the maximum standards (38) allowed for by 14 spaces. I note that the number of proposed adjoining perpendicular parking spaces per bay (14 to 15 spaces) would also exceed the six perpendicular spaces allowed for in section 4.4.9 of the DMURS.

12.6.9. The New Apartment Guidelines advocate the consideration of reduced overall car parking in urban locations served by public transport or close to urban centres, particularly in residential developments with a net density of greater than 45 units per hectare. A Residential Travel Plan Framework and Mobility Management Plan is provided with the application, and this outlines various measures to influence use of more sustainable modes of transport as part of the development, including the use of car-share schemes and appointment of a mobility manager to promote and support the provisions of the travel plan serving the overall development. The Planning Authority require the implementation of this plan and framework to be a condition in the event of a permission. A parking management strategy would also be necessary as a condition in the event of a permission according to the Planning Authority, and I consider this to be a reasonable request as a means of outlining how the residential, non-residential, car share / car club parking spaces and turning, taxi and loading bays would be assigned, located and managed.

12.6.10. I am satisfied that car parking standards below the Development Plan maximum standards for the residential element of the proposed development would be reasonable, given its location accessible to high-capacity public transport services

and major destinations. Given the Development Plan non-residential car parking standards and the location of the subject site, the surface parking layout fronting the site along the Naas Road should be reduced by 14 spaces to a maximum of 38 spaces, and this would allow for reduced numbers of adjoining perpendicular parking spaces per bay, in line with DMURS and the provision of additional visitor cycle parking spaces, as requested by the Planning Authority and discussed below.

Cycle Parking Standards

- 12.6.11. A total of 668 cycle parking spaces would be provided, comprising 496 spaces at basement level, 148 in the residential courtyards and 24 uncovered cycle parking spaces to the front serving commercial units and visitors. The applicant asserts that the residential element of the proposed development would attract 545 cycle parking spaces and the commercial element would attract 24 spaces. The applicant asserts that there would be an overprovision of cycle parking for the residential element based on the Development Plan standards, while highlighting that there would be 296 extra cycle parking spaces at basement level, when compared with the previously permitted scheme (ABP ref.304383-19).
- 12.6.12. The New Apartment Guidelines require at least one cycle storage space per bed space, of which there would be 851 in total, as well as visitor cycle parking at a standard of one space per two residential units, which would result in a requirement for 1,124 cycle parking spaces to serve the residential aspect of the subject development. Based on the proposed provision, a shortfall of 480 cycle parking spaces would arise for the residential aspect.
- 12.6.13. In calculating the quantum of cycle parking applicable for the commercial aspect of the development, the applicant did not assign any cycle parking requirement for the proposed childcare facility. Table 16.2 of the Development Plan does not assign a cycle parking standard strictly for a childcare facility, while the proposed childcare facility would cater for a stated 76 to 126 children. Such a facility would be likely to attract cycle parking for employees and persons dropping off and collecting children from the facility. Cycle parking standards in the Development Plan are generally applied at a rate twice that applied for car parking when using floor area criteria and following this approach and the car parking standards for childcare facilities, it would be reasonable to calculate that the subject 381sq.m childcare facility would require

approximately eight cycle parking spaces. The applicant has also failed to apply standards with respect to staff serving the build-to-rent scheme, including the residential amenity services. Consequently, based on the proposed provision a shortfall of at least eight cycle parking spaces would arise for the commercial aspect of the proposed development.

12.6.14. The Planning Authority has requested further details and further provisions with respect to cycle parking provision, including details with respect to security and access, cycle parking for visitors, non-standard spaces, commercial uses and build-to-rent staff spaces, shower facilities and the provision of a cycle parking management plan.

12.6.15. The New Apartment Guidelines allow for deviation from the standards referenced above, while outlining that apartment developments should be comprehensively equipped with high-quality cycle parking and storage facilities for residents and visitors. I am satisfied that the quantum of cycle parking for the residential element would be welcome in supporting sustainable transport options and the addition of a condition in the event of a permission addressing the concerns raised by the Planning Authority, including the shortfall in commercial, visitor, electric-charge, non-standard and staff cycle parking spaces, would not be unreasonable to ensure comprehensive equipping of the development for cycle parking purposes. Furthermore, there would be scope for same alongside the required reduction in surface car parking and a condition should be attached in the event of a permission to address same.

Traffic

12.6.16. The Planning Authority highlight that the proposed development would result in a slight increase in estimated trips when compared with the previously permitted development (ABP ref. 304383-19). The Elected Members of the Planning Authority raise concerns regarding the cumulative impact of the development alongside other developments increasing vehicle movements along the Naas Road. Based on the modelling outlined in the applicant's Traffic Impact Assessment report, the number of vehicular trips associated with the proposed development exiting onto the Naas Road junction during the morning peak hour (08:00 – 09:00) would be 131 outwards, with 125 returning trips during the evening peak hour (17:00 – 18:00).

12.6.17. Three critical junctions were assessed in relation to traffic flow impacts, in conjunction with other permitted developments in the vicinity, as well as the pre-Covid surveyed traffic flows on the neighbouring road network. The submitted Traffic Impact Assessment asserts that, if permitted, the proposed development would result in an increased impact on the operational traffic volumes in the opening year (2024) at the Concorde industrial estate access road junction by 10% and 11% respectively during both the morning and evening peak hours, and at the more distant junctions, comprising the Naas Road / Kylemore Road / Walkinstown Avenue and the Long Mile Road / Walkinstown Avenue, increases of between 0.3% to 3.4% would arise during morning and evening peak hours. The applicant has also modelled the cumulative increases in traffic associated with other recently permitted large-scale developments in the vicinity, including the Carriglea industrial estate redevelopment and the Nissan site development. Traffic increases of between 4% and 14% have been estimated by the applicant for the morning peak hours at the three neighbouring junctions, while an increase of 5% to 15% was estimated for the evening peak hours.

12.6.18. Based on TII Traffic and Transport Assessment Guidelines (2014), modelling is required for the three subject junctions and the applicant's modelling calculated that the development would have limited impact on traffic in the opening year, the opening +5 year (2029) and the opening +15 year (2039), consequent to the current congestion levels. I am satisfied that based on the information provided in the Traffic Impact Assessment Report, a reasonable approach to modelling future traffic scenarios on the local road network with the development in place has been set out and this does not reveal substantive impacts on traffic, particularly when considering the background traffic levels.

12.6.19. The applicant's model does not include for traffic movements associated with the childcare facility, as they consider many of the end-users for this facility would be from the proposed development itself. According to the Planning Authority, the applicant's assessment does not model the anticipated bus priority measures at the neighbouring junctions arising from the BusConnects project. Notwithstanding this, I am satisfied that the assessment broadly follows the TII guidance on this matter and an alternative technical assessment contradicting the approach or the findings of the applicant's assessment has not been provided. Furthermore, the Planning Authority

has not objected to the findings or the traffic impacts of the development, and I am satisfied that the applicant has provided adequate justification and rationale for the approach undertaken in their Traffic Impact Assessment with sufficient information included for the purpose of this assessment. Furthermore, the site is located on zoned lands within an expanding area of Dublin city and with reasonable access to an array of services. The proposed development would provide for a substantive scale of development, and there are plans in place for the improvement of public transport in this area, including pedestrian and cycle infrastructures, which the project would directly support by providing, while indirectly support by providing additional population to support public transport services. There would undoubtedly be some increase in traffic numbers as a result of the proposed development, which would invariably add to the existing congestion that is acknowledged in the application. However, traffic congestion at peak periods in an urban area such as this, would be anticipated to occur and various measures and design features have been set out within the application and as part of the proposed development to support the use of public transport, cycling and walking, as an alternative to the use of private vehicles.

Construction Traffic

- 12.6.20. The Planning Authority highlights that only operational traffic impacts have been assessed within the application details and that no analysis of construction traffic impacts have been provided in the TIA. Chapter 11 of the EIAR states that the construction phase would result in additional traffic on the road network and references the project construction traffic management plan as a key control measure.
- 12.6.21. The applicant's Construction Environmental Management Plan does state that there would be limited parking for construction workers within the site during construction period of the development. Based on the likely number of construction workers and the anticipated number of residents that would occupy the development, as well as commercial unit employees and patrons, the volume of traffic generated during construction would be likely to be lower than that generated during the operational phase. The applicant has not provided construction traffic management details as part of their Construction Environmental Management Plan and Construction and Demolition Waste Management Plan indicating likely traffic volumes, delivery routes

and measures to address traffic and parking during the construction phase. Furthermore TII has outlined various requirements with respect to addressing the potential impacts on the operation of the Luas light-rail system. In the event of a permission, a construction traffic management plan can be agreed with the Planning Authority.

Conclusion

12.6.22. In conclusion, subject to conditions, the proposed development would not reasonably result in an unacceptable risk of traffic hazard or significant additional traffic congestion in the area, and it would be amended to feature an appropriate provision of car and cycle parking.

12.7. Services and Flood Risk

12.7.1. The observers' submission asserts that the application fails to prove that the subject proposed development would be sufficiently served with respect to drainage, water services and flood risk. The application was accompanied by a Civil Engineering Infrastructure Report and Flood Risk Assessment Report addressing site services, including wastewater, surface water drainage and water supply.

Surface Water Drainage

12.7.2. Consultation with the Planning Authority following the submission of the application, confirmed that the Engineering Department did not object to the development, but that they require various matters to be resolved via conditions to ensure finalised surface water drainage details comply with the Greater Dublin Regional Code of Practice for Drainage Works (Version 6.0). The applicant notes that it is unclear how the existing site drains into the existing neighbouring drainage network, including the existing 450mm-diameter concrete sewer along the Naas Road identified on Irish Water infrastructure drawings for the area, submitted with the application. The Planning Authority require details of the existing surface water sewers, particularly in advance of demolition works.

12.7.3. The strategic drainage network is illustrated in a drawing extracted from the Eastern CFRAM Civil Engineering Infrastructure Report Study forming appendix 5 to the Civil Engineering Infrastructure and Flood Risk Assessment Report. The surface water sewer on the Naas Road and the surface water drainage from the immediate area

would ultimately discharge to the river Camac, which is culverted through the neighbouring Carriglea industrial estate before reappearing in the Lansdowne Valley park.

- 12.7.4. A two-stage treatment system for the interception of rainwater falling onto the site is proposed, including extensive and intensive green roofs and permeable paving. A collector drain would be installed along the northern boundary with the Naas Road, feeding surface water into an underground attenuation tank with a flow control to limit the rate of runoff to greenfield runoff rates. According to the applicant, the proposed attenuation tank would have sufficient capacity to accommodate 1-in-100 year storm events and a freeboard for climate change factors (maximum discharge rates of 9l/s).
- 12.7.5. Within their Civil Engineering Infrastructure Report the applicant states that it is proposed to drain the redeveloped site by gravity towards a public surface water manhole located centrally on the northern boundary of the site with the Naas Road. At approximately 25m north east of the application site, the surface water sewer discharges to a manhole and subsequently to the culverted Camac River. The proposed connection to the existing public surface water should be identified according to the Planning Authority. The applicant's buried surface water drainage layout drawing (no.CCRD-BMD-00-ZZ-DR-C-1010 Issue PL4) identifies a proposed 300mm-diameter pipe leading north from the site under part of the Naas Road. Similar proposals in this regard were previously permitted development under ABP-304383-19.
- 12.7.6. The basement water drainage layout proposals (drawing no.CCRD-BMD-00-ZZ-DR-C-1001 Issue PL4) illustrate the basement car park being drained into the attenuation tank, which subsequently drains to the combined sewer. The Planning Authority state that the drainage from the basement car parks should not be discharging to the surface water systems, and that they should discharge to the foul system after passing through a fuel interceptor. This arrangement discharging the basement surface water to the foul sewer was previously provided for as part of the permitted development under ABP ref. 304383-19 and parties, including Irish Water, did not object to this. The applicant's Civil Engineering Infrastructure Report states that the basement outflow from the petrol interceptor would flow to a sump with duty and standby pumps and the effluent would be pumped from there through a rising

main to the nearest foul manhole on the main gravity system. Irish Water require all stormwater from the proposed development to be drained into the stormwater network.

- 12.7.7. While there are clear inconsistencies in the system that the basement car park is to drain into and there is a need for more precise location of the connection to the existing surface water sewer along Naas Road to be identified, capacity issues with respect to the immediate neighbouring drainage infrastructure facilitating the subject development have not been specifically cited by the Planning Authority or by Irish Water. Furthermore, the Planning Authority or Irish Water have not objected to the development, subject to agreement on conditions that can be resolved prior to the commencement of the development, and other parties to the application have not expanded in a technical manner as to how the proposed development would not be suitably served by drainage services. The revised basement drainage solution would appear to be required to revert to similar arrangements that were previously permitted under ABP ref. 304383-19, which Irish Water had not objected to at the time. Accordingly, I am satisfied that the drainage details submitted with the application reveal that the subject development can be satisfactorily served by drainage services, subject to appropriate conditions.

Foul Water

- 12.7.8. It is proposed to discharge wastewaters from the proposed development by gravity at a single connection point to the existing 1,350mm-diameter combined sewer along the industrial estate access road to the west of the site. This existing sewer runs along the northern and eastern side of the buildings on site and the applicant's drawing identifies a 21m-wide wayleave both sides of this combined sewer running along the Naas Road and the industrial estate access road frontage, as agreed with Irish Water. The applicant's Civil Engineering Infrastructure Report states that this new foul system would serve the proposed retail and commercial development, however, based on the details submitted the capacity of the system would appear to also account for the residential element of the proposed development. Irish Water have no objection to the proposals noting that the connections to wastewater can be facilitated without upgrade of this infrastructure and subject to standard connection agreements. In conclusion, I consider the foul drainage proposals to serve the subject development to be satisfactory, subject to appropriate conditions.

Water Supply

12.7.9. The applicant forwarded correspondence from Irish Water with respect to a pre-connection enquiry stating that the water supply connection would be feasible, noting that Irish Water requires a 200mm-diameter connection pipe with installed bulk meter and associated telemetry system to be installed instead of the proposed 4-inch AC connection to the 9-inch main on Naas Road. In response to the application details Irish Water repeated this request. Based on the buried watermain layout drawing (no.CCRD-BMD-00-ZZ-DR-C-1005 Issue PL4) submitted with the application it is proposed to install a 200mm-diameter connection pipe with telemetry system into a 9 inch-diameter watermain running along Naas Road, in order to supply water to the subject development, in compliance with the requirements of Irish Water. Buried storage tanks would also be installed throughout the development. This drawing also shows a 13.5m wayleave between proposed blocks E and F on site, following the alignment of a 30-inch steel watermain. The applicant states in their Civil Engineering Infrastructure Report that it is proposed to connect to the existing 30-inch line, but this is not reflected on the drawings, which I am satisfied are more specific in detailing the application proposals in this respect and generally show a suitable connection can be made in compliance with Irish Water's requirements and subject to standard connection agreements. In conclusion, I consider the water supply proposals to serve the subject development to be satisfactory, subject to appropriate conditions.

Flood Risk

12.7.10. The Naas Road Lands Local Area Plan 2013 identifies the nearest area as having a high probability of flooding with a high risk of a river flood event as being located over 100m to the southeast of the site at an outfall to an open section of the Camac River. A low probability of flood risk is identified in the Local Area Plan for the subject site. The applicant submitted a site specific flood risk assessment and this asserted that based on more up-to-date information available, including Office of Public Works (OPW) mapping, the site is at negligible risk of tidal (coastal) flooding, at low risk of fluvial and groundwater flooding, and at moderate risk of pluvial (surface water) flooding. The applicant states that flows from the development would be limited to Q_{bar} , which is the predicted natural run-off from the development, therefore, no flooding would occur of the downstream catchment due to the

proposed development. The proposed storm-water system has been designed to retain a 1-in-100 year storm event (plus 20% storm level), therefore, the proposed development would reduce the risk of pluvial flooding on site and would not increase the potential for flooding to the receiving Camac river catchment. To further highlight that the development would not be at risk from flooding, the applicant highlighted that maximum water levels from the two closest control nodes reveal water levels a minimum of 4.3m to 9.6m below the ground-floor level in the proposed development. The ground-floor levels would also be 150mm above surrounding ground levels to prevent pluvial flooding to the building.

12.7.11. Following the approach set out within 'The Planning System and Flood Risk Management – Guidelines for Planning Authorities', the site is within an area of low probability for flooding (flood zone C) and the proposed development is 'less vulnerable' and therefore appropriate for the site. In conclusion, based on the information available, I am satisfied that the development would be at low risk of flooding and it would not increase the risk of flooding to other lands.

12.8. **Material Contravention**

12.8.1. Under the provisions of section 9(6) of the Act of 2016, the Board may decide to grant a permission for a proposed strategic housing development where the proposed development, or a part of it, contravenes materially the Development Plan or a Local Area Plan relating to the area concerned, albeit with exception to a material contravention of zoning objectives and subject to circumstances provided for under section 37 of the Act of 2000, as outlined below. As noted above, a material contravention with respect to zoning objectives would not arise in the case.

12.8.2. The application contains a statement indicating why permission should be granted for the proposed development, having regard to the provisions specified in section 37(2)(b) of the Act of 2000, notwithstanding that the proposed development materially contravenes the Development Plan and the Local Area Plan with regard to specific statutory planning requirements, other than in relation to the zoning of the land.

12.8.3. The applicant initially addresses potential for material contraventions to arise with respect to unit mix and unit size and I am satisfied, for reasons outlined above

addressing each of these matters, material contraventions would not arise regarding these matters. Furthermore, the observers' submission asserts that material contraventions would arise with respect to other matters, including public open space, car parking, childcare provision, ACA, policy objectives SS02a and PM17 and the visual impact of the proposed development, and I am satisfied, for reasons outlined above addressing each of these matters, material contraventions would not arise with respect to same. Policy objectives SS02a and PM17 would appear to relate to a statutory plan covering the Fingal county area. I have also concluded above that the development would not materially contravene the provisions of the Development Plan with respect to floor to ceiling heights and private amenity space and the provisions of the Local Area Plan with respect to private and communal amenity space.

- 12.8.4. As part of the specific assessments above with respect to building heights, residential densities and unit numbers/core strategy, where relevant I have set out the comments and opinions from the various parties, including the Planning Authority, observers and Elected Members. I have also provided my conclusions with respect to these matters, including whether or not I am satisfied that these aspects of the proposed development would adhere to national policy, including SPPRs.
- 12.8.5. Section 37 of the Act of 2000 provides that the Board is precluded from granting permission for development that is considered to be a material contravention, except in circumstances where at least one of the following applies:
- (i) the proposed development is of strategic or national importance;
 - (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned;
 - (iii) permission for the proposed development should be granted having regard to the regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government;

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

Residential Density and Unit Numbers / Core Strategy

- 12.8.6. As noted above, I am satisfied that a material contravention of the Local Area Plan would arise with respect to the proposed residential density, in particular the densities that would be achieved on site relative to the 45 to 50 units envisaged in the Local Area Plan and the overall permitted number of residential units that would result for the Naas Road Lands Local Area Plan development area substantially exceeding the targets set for 2023. I am also satisfied that the number of units would exceed the housing target set for the subject SDRA and the development would materially contravene the core strategy of the Development Plan.
- 12.8.7. On the basis of my assessment above, I am satisfied that the proposed development is of strategic and national importance by reason of it being located within the 'Naas Road Lands' area designated as 'SDRA 5 – Naas Road' in the Dublin City Development Plan 2016-2022 and its potential to substantively contribute to the achievement of the Government's national policy to increase housing supply, as set out in 'Housing for All – A New Housing Plan for Ireland' (2021) and 'Rebuilding Ireland – Action Plan for Housing and Homelessness' (2016) within the Dublin MASP and on a high-capacity, high-frequency public transport corridor, with links to further sustainable modes of the transport network. Furthermore, the application site location within a SDRA, in itself refers to the strategic importance of the site, which elevates it above other zoned lands contained in the Development Plan. Accordingly, I am satisfied that the provisions set out under section 37(2)(b)(i) are applicable with respect to the material contravention of the residential density and unit number standards of the Local Area Plan and the material contravention of the core strategy of the Development Plan.
- 12.8.8. In relation to the matter of conflicting objectives in the Development Plan or objectives that are not clearly stated, addressed in section 37(2)(b)(ii) of the Act of 2000, I am satisfied that this would not apply in the case as the objectives in the Local Area Plan with respect to density and units numbers and the objectives in the Development Plan with respect to housing targets are reasonably well stated.

- 12.8.9. With regard to section 37(2)(b)(iii), as considered in detail above in section 12.2, I am satisfied that the residential densities and housing numbers for the proposed development in this location are in accordance with national policy, as set out in the NPF, specifically NPO 13 and NPO 35, and regional policy RPO 5.4 set out in the RSES. Having regard to the provisions of section 37(2)(b)(iii) of the Act of 2000, I am satisfied that a material contravention with respect to residential densities and unit numbers / core strategy is justified in this case.
- 12.8.10. In relation to section 37(2)(b)(iv) of the Act of 2000, I note that the current Development Plan was adopted in 2016. The existing Lansdowne Gate development is stated to feature a residential density of 129 units per hectare, while the overall phase 1 and 2 Carriglea industrial estate development would feature a residential density of 149 units per hectare. The permitted Nissan site redevelopment adjoining to the site would feature a residential density of 164 units per hectare, while a density of 330 residential units per hectare has been granted for the Royal Liver Insurance Retail Park redevelopment. The proposed development is to an extent, continuing on the emerging pattern of development with respect to residential density and unit numbers. Having regard to the provisions of section 37(2)(b)(iv) of the Act of 2000, I am satisfied that a material contravention relative to residential density and unit numbers contained in the Local Area Plan is justified in this case.
- 12.8.11. Should the Board be minded to invoke the material contravention procedure, as relates to Local Area Plan provisions pertaining to residential density and unit numbers, I consider that the provisions of sections 37(2)(b)(i), (iii) and (iv) have been met with respect to the proposed development. Furthermore, should the Board wish to invoke the material contravention procedure, as relates to Development Plan provisions pertaining to the core strategy, I consider that the provisions of sections 37(2)(b)(i) and (iii) have been met with respect to the proposed development. In this regard I am satisfied that the Board can grant permission for the proposed development.

Building Heights

- 12.8.12. Material contraventions of the Development Plan and the Local Area Plan are stated by the applicant to arise with respect to the proposed building heights and observers

to the application are in agreement with same. The application documentation, including the Material Contravention Statement provides the applicant's justification for the proposed building heights, including compliance with development management criteria set out in the Building Heights Guidelines.

- 12.8.13. With respect to building heights, my conclusions above refer to the proposed development materially contravening Development Plan policy SC17, as well as Local Area Plan policy UFO1.
- 12.8.14. Further to my assessments above, I am satisfied that the proposal positively assists in securing NPF objectives to focus development into key urban centres, fulfilling targets related to infill development and to deliver compact growth in urban centres. As with my conclusions regarding material contravention of the proposals with respect to residential densities and unit numbers / core strategy, I am satisfied that the provisions set out under section 37(2)(b)(i) are applicable with respect to the material contravention of the building height standards of the Development Plan and the Local Area Plan.
- 12.8.15. The Development Plan sets a limit of 24m building height (approximately eight storeys residential) for this area, while policy UFO1 of the Local Area Plan allows for a maximum of six storeys onto the Naas Road and five storeys along Carriglea industrial estate access road and to the rear of the site. As such the objectives of the Development Plan are conflicting with those of the Local Area Plan with respect to building heights and I am satisfied that the provisions under section 37(2)(b)(ii) of the Act of 2000 would apply in this case.
- 12.8.16. With regard to section 37(2)(b)(iii), as per my detailed assessment in section 12.3 above, I am satisfied that the building heights for the proposed development are in accordance with national policy, as set out in the NPF, specifically NPOs 13 and 35. Furthermore, the proposed development is in compliance with SPPR 3 of the Building Heights Guidelines, which references criteria set out in section 3.2 of these Guidelines. Having regard to the provisions of section 37(2)(b)(iii) of the Act of 2000, I am satisfied that a material contravention is justified in this case with regard to guidelines under section 28 and policy of the Government set out in the NPF.
- 12.8.17. In relation to section 37(2)(b)(iv) of the Act of 2000, I note that for neighbouring sites subject of similar Development Plan and Local Area Plan height restrictions,

permissions have recently been approved for eight-storey buildings under ABP ref. 311606-21 on the adjoining Carriglea industrial estate site. Building heights ranging from seven to 18 storeys, including ridge heights between 18.9m and 77.8m on the Royal Liver Insurance Retail Park site 30m to the north of the site have also been approved (ABP-307804-20) and the permitted Nissan site redevelopment (DCC ref. 3228/20) would feature building heights ranging from four to 15 storeys. The proposed development is to an extent, continuing on that pattern of development and the provisions under section 37(2)(b)(iv) of the Act of 2000 apply.

12.8.18. Should the Board be minded to invoke the material contravention procedure, as relates to Development Plan and Local Area Plan policies pertaining to building heights, I consider that the provisions of sections 37(2)(b)(i), (ii), (iii) and (iv) have been met with respect to the proposed building heights. In this regard I am satisfied that the Board can grant permission for the proposal.

13.0 Environmental Impact Assessment

13.1. Introduction

13.1.1. This section sets out an EIA of the proposed project and should be read in conjunction with the planning assessment above. The development provides for 545 build-to-rent residential units, a childcare facility, three commercial / retail units, five café / restaurants, a medical centre, shared office space and residents' amenity areas on a gross site area measuring 1.94ha. The site is located within the area of Dublin City Council. A number of the topics and issues raised by observers that concern environmental matters have already been addressed in the planning assessment above, however, where relevant I have cross-referenced between sections to avoid unnecessary repetition.

13.1.2. Item 10(b) of Part 2 to Schedule 5 of the Planning and Development Regulations 2001-2021 and section 172(1)(a) of the Act of 2000 provides that an EIA is required for infrastructure projects that involve:

- (i) construction of more than 500 dwelling units

(iv) urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

- 13.1.3. The current proposal is an urban development project that would be in the built-up area of a city, but not in a business district. It is within a class of development described in item 10(b)(i) above, thereby requiring EIA. Consequently, the applicant has submitted an EIAR with this application.
- 13.1.4. The observers refer to the proposed development being subthreshold for the purposes of EIA, however, this is clearly incorrect. The observers also refer to the applicant's EIA Screening as being insufficient with respect to risk to human health, pollution, nuisances, collision-risk for birds and bats, and the general impact on biodiversity and human health arising from the proposed development. It is asserted in the observers' submission that the EIA Screening Report does not comply with statutory requirements and is inadequate, as it fails to assess the impact of the increased population on local services and as it is not based on a complete development description, omitting details of the construction phase. The observers assert that the Board lacks the expertise or access to same in order to examine the EIA Screening Report. In response to all of these matters, I note that an EIA Screening Report has not been submitted with this application.
- 13.1.5. The EIAR comprises a non-technical summary, a main volume and supporting appendices, a number of which are also included as standalone reports with the application. A schedule of mitigation measures and monitoring described throughout the EIAR has been prepared and is presented within Chapter 15 of the EIAR. Table 1.7 of section 1.11 of the EIAR, as well as the introduction to chapters describes the competencies of those involved in the preparation of the EIAR.
- 13.1.6. As is required under Article 3(1) of the amending Directive, the EIAR describes and assesses the direct and indirect significant effects of the project on the following factors; (a) population and human health; (b) biodiversity with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape. It also considers the interaction between the factors referred to in points (a) to (d). Article 3(2) includes a requirement that the expected

effects derived from the vulnerability of the project to major accidents and / or disasters that are relevant to the project concerned are considered.

13.1.7. I am satisfied that the information contained in the EIAR has been prepared by competent experts and complies with article 94 of the Planning and Development Regulations 2001-2021. The EIAR would also comply with the provisions of Article 5 of the EIA Directive 2014. This EIA has had regard to the information submitted with the application, including the EIAR, and to the submissions received from the Planning Authority, the prescribed bodies and members of the public, which are summarised in sections 9, 10 and 11 of this report above. For the purposes of EIA, I am satisfied that the EIAR is suitably robust and contains the relevant levels of information and this is demonstrated throughout my overall assessment.

13.2. Vulnerability of the Project to Major Accidents and/or Disaster

13.2.1. The requirements of Article 3(2) of the amending Directive includes consideration of the expected effect deriving from the vulnerability of the project to risks of major accidents and/or disaster that are relevant to the project concerned. The EIAR specifically addresses the issue of major accidents and/or disasters under chapter 14 titled 'Risk Management' in the EIAR. Observers refer to the risk posed to human health arising from the project.

13.2.2. Ten categories of risks are considered as part of the applicant's risk assessment, including weather, hydrological, geological, road, industrial accident, explosion, fire, building collapse, hazardous substance escape and pollution. Various risk management measures are outlined for the construction and operation phases of the project. The applicant identifies three Seveso sites to the west of the application site and the Local Area Plan lands within the South Dublin County Council administrative area. These sites comprise:

- Irish Distillers Robinhood Road, Clondalkin, Dublin 22;
- BOC Gases Ireland, Bluebell Industrial Estate, Dublin 12;
- Kayfoam Woolfson, Bluebell Industrial Estate, Dublin 12.

13.2.3. The application site would be within the consultation zone of the BOC Gases Ireland facility, which is on the upper-tier for the control of major accident hazards, involving

dangerous substances (COMAH) and the Kayfoam Woolfson facility, which is a lower-tier COMAH facility. The applicant provided a land-use planning assessment of the potential impact arising from the operation and the location of the SEVESO sites. The applicant asserts that this assessment was completed in accordance with the 'Policy and Approach of the Health and Safety Authority to COMAH risk-based Land Use Planning' (HSA, 2010), analysing both the individual and cumulative effect of the SEVESO sites on the proposed development. The conclusions of this assessment prepared by a Consultant Chemical Engineer and a Principal Risk Consultant highlighted that the individual risk of fatality contours do not extend to the proposed development from the BOC Gases Ireland facility and that fatalities are not expected to arise at the proposed development as a result of any risk associated with the Kayfoam Woolfson facility. The cumulative individual risk contours for the BOC Gases Ireland and Kayfoam Woolfson sites corresponding to the boundary of the inner, middle and outer land-use planning zones are illustrated in the applicant's report and this found that the outer land-use planning zone does not extend to the proposed development. Accordingly, on the basis of individual risk, the BOC Gases Ireland Ltd and Kayfoam Woolfson Ltd. facilities do not pose a constraint to the redevelopment of the subject application site. The proposed project is not likely to be affected by an accident at any Seveso site in the immediate area, nor is any Seveso site likely to be affected by the proposed project itself.

- 13.2.4. Given the urban nature of the receiving environment and the nature of the proposed project, it is considered that there is no linkage factor of a hazard that could trigger what would constitute major accidents and disasters. Compliance with the project Construction Environmental Management Plan, as well as good housekeeping practices are considered to limit the risk of accidents during construction. The vulnerability of the proposed project to major accidents and / or disasters is not considered significant. The proposed development is primarily residential in nature and will not require large-scale quantities of hazardous materials or fuels. The risk of fire is managed through the Fire Safety Certification process, which is an integral part of the design of the proposed development. The applicant refers to the Dublin City Council 'Major Emergency Plan' which, if implemented as intended, would work to reduce the effect of any major accident or disaster.

13.2.5. I am satisfied that the proposed uses are unlikely to present risk. As noted in section 12.8 above, the site would not be at major risk of flooding. Having regard to the location of the site and the existing land use, as well as the zoning of the site, I am satisfied that there are unlikely to be any effects deriving from major accidents and / or disasters.

13.3. Alternatives

13.3.1. Article 5(1)(d) of the 2014 EIA Directive requires:

(d) a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment,

13.3.2. Annex (IV) (Information for the EIAR) provides more detail on 'reasonable alternatives':

2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.

13.3.3. Chapter 2 of the EIAR provides a description of the range of alternatives considered, including locations, a do-nothing scenario, the previous permitted development on site, alternative designs and processes. If nothing were done the lands would remain underdeveloped, with an opportunity lost to provide 545 residential units, as well as various non-residential uses, and an efficient use of zoned urban land. Considering that the lands in question are zoned for uses that include housing, as well as the fact that the environmental sensitivities of the site are not such as to preclude development per se, alternative locations are not considered relevant. The process in arriving at the subject proposals as well as the rationale for discounting other options is provided as part of chapter 2 of the EIAR. Constraints in relation to the redevelopment of the site are stated to have influenced the project, as well as the alternative processes. I am satisfied that there are no alternative processes having regard to the nature of the proposed project relative to the planning context.

13.3.4. The permissible and open for consideration uses on the site are prescribed by its zoning under the Development Plan and the Local Area Plan. The alternatives that were considered were, therefore, largely restricted to accord with the surrounding developments, as were the variations in building heights, layout and design. In the prevailing circumstances the overall approach of the applicant was reasonable, and the requirements of the Directive with regard to 'alternatives' have been met.

13.4. Consultations

13.4.1. During the application process, the applicant would have consulted directly with Dublin City Council and An Bord Pleanála. The observers raise concerns regarding public participation being contrary to the requirements of the EIA Directive. Direct and formal public participation in the EIA process was undertaken through the statutory planning application process under the Strategic Housing Development procedures. Public participation and consultation is an integral part of the new Strategic Housing Development process as outlined in the Planning and Development (Housing) and Residential Tenancies Act 2016 and the Planning and Development (Strategic Housing Development) Regulations 2017. Prescribed bodies identified in section 11 of this report were notified of the application. I am satisfied that the participation of the public has been effective, and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions.

13.5. Likely Significant Direct and Indirect Effects

13.5.1. The likely significant indirect effects of the development are considered under the headings below, which follow the order of the factors set out in Article 3 of the EIA Directive 2014/52/EU:

- population and human health;
- biodiversity;
- land, soils and geology;
- water;
- air quality and climate;

- noise and vibration;
- landscape and visual impact assessment;
- material assets;
- cultural heritage, archaeology and architectural heritage;
- the interaction between those factors.

13.6. Population and Human Health

13.6.1. Population and human health is addressed in Chapter 4 of the EIAR. The methodology for the assessment is described, as well as the receiving environment. The assessment considers attributes and characteristics associated with population, as well as recent economic and demographic trends. Direct health effects from changes in air quality, changes in noise exposure and changes in transport nature and flow rate are assessed, as are the indirect health effects in relation to socio-economic factors.

13.6.2. The population of the area would increase consequent to the operation of the proposed development. In terms of human health, the most likely impact will be during the construction phase of the development and observers have concerns regarding the nuisance arising from the associated construction activity, which would include dust emissions, noise and traffic. Given the control of activity on site by the developer, as noted above, these activities and emissions can be controlled to appropriate levels through the use of management measures, including those set out in the EIAR, the construction and demolition waste management plan and the construction environmental management plan submitted with the application. These measures outline how the proposed works would be delivered safely and in a manner that minimises risks to human health. Off-peak commuting by construction workers would reduce the impacts on neighbouring public transport services.

13.6.3. The imposition of limits by conditions in any grant of permission would reinforce the preservation of human health. With the implementation of remedial and mitigation measures, it is concluded that the proposed development would not be likely to have significant adverse effects on human health. A detailed assessment undertaken in

section 12.5 above did not find that the development would have detrimental impacts on the amenities of neighbouring properties, including lighting to residences.

- 13.6.4. Other aspects of the development such as air quality, noise/vibration, transportation and water may lead to effects on the local population. In terms of noise and vibration, the occupation of the development would not give rise to any noise or vibration that would be likely to have a significant effect on human health or the population, as it would be a mixed-use scheme that forms part of the built-up area of a gateway to the city. The impact of additional traffic on noise levels and the character of the surrounding road network would be insignificant having regard to the existing traffic levels on roads in the vicinity and the marginal increase that would occur as a result of the proposed development. This is demonstrated by the Traffic Impact Assessment submitted as part of the scheme.
- 13.6.5. The Elected Members of the Planning Authority have raised issues regarding the availability of school places to serve the development. I address the issue of schools, as well as childcare provision under the heading 'Residential Amenities' in the planning assessment section of my report. When operational, the proposed childcare facilities would be of benefit for residents of the development and the wider area and based on demographic analysis the proposed development would not have substantive impacts on schools within the area, which are stated to have capacity to facilitate the development. New services, such as retail, commercial, office and restaurant / café uses, and the community amenity and open spaces would also be of benefit to residents and the wider community, offering potential for people to come together, which would further contribute to building a sense of place and community. I would also note that the development itself would be likely to have significant direct positive impacts with regard to population, as well as material assets, due to the increase in the housing stock that it would make available in this urban area.
- 13.6.6. I am satisfied that potential effects on population and human health, particularly during the construction phases, would be avoided, managed and mitigated by the measures that form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on population and human health.

13.7. Biodiversity

- 13.7.1. Chapter 5 of the EIAR addresses biodiversity with particular attention for species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC. The biodiversity chapter details the survey methodology of the biodiversity assessment and the fieldwork undertaken on the 21st day of September, 2021, surveying for terrestrial and avian ecology. Aerial photographs and site maps assisted the habitat survey and the habitats identified are categorised in table 5-8 and figure 3.6 of the EIAR. It is noted that an AA Screening Report for the project was prepared as a standalone document. As assessed in section 14 of my report, the proposed development was considered in the context of sites designated under Directive 92/43/EEC or Directive 2009/147/EC.
- 13.7.2. In the event of a permission, the Waste Regulation and Enforcement Unit of the Planning Authority require the attachment of a condition requiring a survey on the status of invasive species on the site, prior to the commencement of construction, as well as measures to treat any species identified.
- 13.7.3. Observers consider that sufficient consideration for collision-risk for birds and bats, and the general impact on biodiversity has not been appropriately considered in the application. The Fossit habitat categories mostly characterising the site comprise buildings and artificial surfaces (BL3) / exposed sand gravel or till (ED2), amenity grassland (GA2), flower beds and borders (BC4) and treelines (WL1). A hedgerow comprising brambles, birch, scrambling roses and butterfly-bush is situated on the rear southern boundary of the site. Only habitats of low biodiversity value were found during surveys with no substantive tree stands or semi-natural areas of substantive wildlife value.
- 13.7.4. Plant species listed as of the alien invasive variety under SI No. 477 of 2011, were not found to be growing on the site. No flora or terrestrial fauna species or habitats of National or international conservation importance were noted during the field survey. No watercourses or wetlands suitable for species, such as otter, were found on site. With regard to terrestrial mammal species evidence of a fox using the site was identified. The only bird species of note identified during surveys related to a single herring gull perched on a building roof, with no associated juveniles noted. The applicant's EIAR asserts that the development would have no significant

interaction due to its location, materials or artificial lighting on bird flight lines and / or collision. I am not aware of any evidence of the site being located on regular commuting line for birds.

- 13.7.5. A bat survey of the buildings on site and a detector survey were carried out with a report covering same included as Appendix 5.1 to the EIAR. A full examination of the buildings yielded no evidence of past or current bat presence. No evidence of bats was observed on external walls. No trees of bat roosting potential exist on site. No evidence of past or current use by bats of any of the onsite structures or trees was found when surveys were undertaken. No bats foraging on site was noted. In such a scenario it is unlikely that the proposed development would present a particular impact for bats, including collision-risk.
- 13.7.6. Section 5.5 of the EIAR describes the likely effects of the proposed development on biodiversity and table 5-5 provides a summary of the construction and operation phase impacts, including the quality, significance, extent, probability, duration and type of impacts. Measures to minimise the impact of the development on biodiversity, include the design features, such as such as drainage solutions and the implementation of the project Construction Environmental Management Plan, as well as standard construction safe practices and monitoring. The final Construction Environmental Management Plan can be provided as a condition in the event of a permission and should comprise an updated report on the status of any invasive species on site. According to the applicant the biodiversity value of the site would be expected to improve as the proposed landscaping matures, which would appear logical based on the species proposed and the existing status of habitats on site.
- 13.7.7. Having regard to the foregoing, including the low ecological value of habitat and species noted on the site, it is not likely that the proposed development would have significant effects on biodiversity. I have considered all of the written submissions made in relation to biodiversity and I am satisfied with regard to the level of information before me in relation to biodiversity. I draw the Board's attention to the AA section of my report (section 14) where the potential impact of the proposed development on the conservation objectives of designated European sites is discussed in greater detail.

13.7.8. I am satisfied that potential effects would be avoided, managed, and mitigated by the measures that form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on biodiversity.

13.8. **Land, Soil and Geology**

- 13.8.1. Chapter 7 of the EIAR deals with land and soils, and includes the findings of initial site investigations carried out during 2018 comprising bore holes, dynamic probes, infiltration testing and associated environmental laboratory testing. A Site Investigations Report is appended to this section of the EIAR.
- 13.8.2. There is hardstanding over almost the entire site area, with the uppermost area approximately 150mm deep. Based on investigations, made ground was encountered at varying depths of 200mm to 850mm, comprising of primarily fine to coarse gravel. Further made ground was encountered to a depth of 2.5m comprising of reworked sandy-gravelly clay, and fill/gravelly sand/sandy gravel. Below this glacial till of sandy gravelly clay/silt, frequently with low cobble content was encountered to a depth of 10m. Topsoils of brown boulder clay and stiff black boulder clay overlying strong calp limestone were identified with the depth to groundwater on site varying from 2.1m to 2.48m. Review of the Geological Survey of Ireland (GSI) online mapping service indicates topsoils on site primarily consisting of 'till derived from limestone'. Bedrock of limestone and shale was identified at 8.5m below ground level conforming to the GSI mapping information referring to the Lucan formation. Groundwater vulnerability is identified as being moderate for the site based on GSI mapping. The GSI Groundwater data viewer does not indicate groundwater wells or springs on or near the site.
- 13.8.3. The proposed development would result in the continued use of zoned land for development purposes, including residential uses, but at a more intensive scale. Given that zoned land would remain available in the wider region, this is not considered to be a significant effect of the project. The proposed development would not require substantial changes in the levels of the site. It is therefore unlikely that the proposed development would have significant effects with respect to soil.

- 13.8.4. The construction phase of development would feature piled foundations approximately to bedrock at 8.5m below ground level and would also require the removal of a 0.3m-depth of the existing topsoil layer. Subsoil stripping and localised stockpiling of soil will be required during construction. It is estimated that 32,256m³ of materials would be excavated to facilitate construction of the proposed project, 14,509m³ of which would be reused for fill purposes on site and 17,747m³ would be exported to a licenced facility. Importation of structural fill will be required for foundations, roads and services.
- 13.8.5. Significant cumulative impacts alongside other development in the area are not considered to arise. Observers have raised issues regarding the nuisance that would be caused by the construction phase of the development, however, I am satisfied that an appropriate construction traffic management plan can address issues that would arise from the export and importation of materials to and from the site and the project dust minimisation plan (appendix 9.3 of the EIAR), as part of the construction environmental management plan would manage and minimise dust emissions. Various standard construction practices forming measures to address the potential for hazardous materials to be found during demolition and excavation works and to address the risk of pollution to soils and groundwater are also set out.
- 13.8.6. I am satisfied that the identified impacts on land, soils and geology would be avoided, managed and mitigated by the measures that form part of the project, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the project would not have any unacceptable direct or indirect impacts in terms of land, soils and geology.

13.9. **Water**

- 13.9.1. Chapter 8 of the EIAR deals with water and the application is accompanied by a Hydrological and Hydrogeological Qualitative Risk Assessment. The site lies within the River Liffey subcatchment and the Liffey and Dublin Bay Hydrometric Area.
- 13.9.2. The Camac River is the closest watercourse to the application site and this is a designated Environmental Protection Agency (EPA) watercourse that discharges to the River Liffey, approximately 3.5km north of the site. The applicant's water chapter states that under the Water Framework Directive (WFD) the overall status of the

Camac River catchment has been assessed as 'poor', which indicates point or diffuse pollution sources, or other ecological problems, such as obstructions. In this case the poor status is mainly related to its biological status or potential (invertebrate) and phosphorous conditions. The Liffey Estuary Upper and Dublin Bay waterbodies have 'good' water quality status for the purposes of the WFD. Under the third cycle of the WFD, the Camac River waterbody has a WFD risk score of 'at risk' of not achieving good status, while the Liffey Estuary Lower waterbody has a WFD risk score subject to 'review'. Dublin Bay waterbody has a WFD risk score of 'not at risk'. The most recent surface water quality data for the Liffey Estuary Lower and Dublin Bay (2019-2020) indicate that they are 'Unpolluted'. The most recent WFD groundwater status for the Dublin groundwater body is 'good' and with a current WFD risk score subject to 'review'. The GSI mapping classifies the bedrock aquifer vulnerability in the region of the subject site as 'moderate', which indicates a general overburden depth potential of 5m to 10m. This indicates that the aquifer is well protected by low permeability glacial clays.

- 13.9.3. Proposals with respect to surface water drainage, which would ultimately discharge to the Camac River, are outlined within section 12.7 above. There is potential for impacts to arise during the construction phases of the proposed development from the emission of sediments or hydrocarbons to surface water, as described in section 8.4 of the EIAR. The potential for such effects would be typical for projects involving redevelopment of urban sites. Potential impacts on receiving water during the operational phase of the project, including those as a result of the introduction of SUDS measures and new connections to services. Standard measures to avoid pollution of waters are to be used and these are described in section 8.7 of the EIAR. The efficacy of such measures is well established in practice. It is reasonable to conclude that the construction of the proposed development would be unlikely to have significant effects on the quality of water.
- 13.9.4. The proposed project was subject to a Site Specific Flood Risk Assessment in accordance with the OPW 'Flood Risk Management Guidelines', and this was included with the planning application as a separate document. The Site Specific Flood Risk Assessment states that the development would be located in Flood Zone C and it would have the required level of flood protection. The finished-floor levels of the buildings would be approximately 4.3m to 9.6m above maximum flood levels of

the nearest control nodes. The proposed storm-water system has been designed to retain a 1-in-100 year storm event (plus 20% storm level), therefore, the proposed development would reduce the risk of pluvial flooding on site and would not increase the potential for flooding to the receiving catchment, including the Camac River. Regular maintenance details are referenced within the applicant's Civil Engineering Infrastructure and Flood Risk Assessment Report.

- 13.9.5. It is proposed to drain foul effluent from the proposed development to an existing sewer located adjacent to the site's eastern boundary. The sewer network that would serve the development ultimately discharges to Ringsend Wastewater Treatment Plant. Irish Water have confirmed that a new connection to the existing network is feasible without upgrade. Surface water is intended to drain following a series of interception measures before discharging via subsurface drains along the Naas Road leading to the culverted Camac River. It will be necessary for the applicant to reach an agreement between Irish Water and the Planning Authority with respect to the drainage solution for the basement level.
- 13.9.6. The water supply for the proposed development would be from a connection to the existing 9-inch main running along the Naas Road. An average daily domestic demand for 1,681 persons has been calculated when the site is fully occupied. Irish Water has confirmed that a new connection from the public network is feasible.
- 13.9.7. I have considered all of the written submissions made in relation to water and the relevant contents of the file, including the EIAR. I am satisfied with the level of information submitted and any issues of a technical nature can be addressed by condition as necessary. It can be concluded that, subject to the implementation of the measures described in the EIAR and conditions in the event of a permission, the proposed development would not be likely to have a significant effect on water. With regard to cumulative impacts, no significant cumulative impacts on the water environment are anticipated.

13.10. Air Quality and Climate

- 13.10.1. Air quality and climate are addressed in chapter 9 of the EIAR. The proposed apartments, the commercial, office and retail units, the childcare facility and the open spaces would not accommodate activities that would typically cause emissions that

would be likely to have significant effects on air quality and climate. Baseline conditions and traffic modelling amongst other criteria has guided this aspect of the EIAR.

- 13.10.2. Impacts to climate during the construction/demolition phase are considered to be imperceptible, neutral and short-term based on the nature and scale of the project, including the likely materials and machinery required. Measures have been incorporated into the overall design of the development to reduce the impact to climate where possible during the operational phase, including energy-saving features, as well as a Residential Travel Plan Framework and Mobility Management Plan to reduce use of private motor vehicle trips. It is predicted that in the opening year for the development it would increase carbon dioxide emissions by 0.00123% of the EU 2030 target. In 2039 carbon dioxide emissions would remain at 0.00123% of the EU 2039 target. I recognise that these targets are constantly evolving, however, the level of emissions is not substantive. The climate impact of the proposed development is considered negative, long-term and imperceptible for the operational phase.
- 13.10.3. Potential air quality impacts on ecological sites have been scoped out based on the distances to same greater than TII guidance on this matter. There is potential for dust emissions to occur during construction to other sensitive receptors in the vicinity, including humans. Measures are proposed to mitigate impacts on air quality, including a dust minimisation plan incorporating various dust suppression measures that would be typical and robust measures in effectively addressing emissions to air during the construction phase of a development of this nature. Monitoring during the construction phase is also proposed to mitigate any impacts arising on sensitive receptors. Traffic volumes for the operational phase of the development have been modelled and significant impacts are not envisaged on air quality. The development includes a childcare facility and non-residential units, such as restaurant / cafés, which may be served by external plant, such as air-handling units. I do not anticipate that any significant impacts would arise from these uses, as standard conditions concerning noise and positioning of plant could be attached in the event of a grant of permission. It is therefore concluded that the proposed development is unlikely to have significant effects on air quality.

13.10.4. I have considered all of the written submissions made in relation to air quality and climate. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures that form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of air quality and climate. With regard to cumulative impacts, no significant cumulative impacts on the air quality and climate are anticipated.

13.11. Noise and Vibration

13.11.1. Noise and vibration impacts are addressed in chapter 10 of the EIAR. Both the outward impact of the development and the inward impact of existing noise and vibration sources on the development itself were considered with noise limits identified, as well as vibration limits.

13.11.2. Background noise was surveyed as largely arising from traffic movement along the Naas Road, including Luas operations. Noise and vibration impacts would be most likely to arise during the construction phase of the development with potential nuisance for neighbouring receptors, as referenced in observations to the application. Particular noise sources would arise from the demolition and excavation works. The predicted construction and demolition noise levels at the nearest sensitive receptors would be above the relevant construction noise criteria and in the absence of noise mitigation, a negative, significant and short-term impact would be likely to arise. A neutral, imperceptible long-term impact arising from the additional traffic associated with the development is anticipated in the operation stage. Increased noise levels at sensitive receptors are not anticipated should neighbouring developments occur alongside the subject development.

13.11.3. The future noise environment was modelled and assessed to identify likely requirements to address noise impacts. The EIAR outlines the standards to be achieved in the residential living areas with respect to noise levels and how this would be achieved. Measures to be undertaken to address noise during the operation phases, based on anticipated noise levels, standard limitations and design parameters are outlined, including the provision of relevant sound insulation. A suite of operational mitigation measures addressing glazing, ventilation and wall

construction are included, which would aim to ensure that the internal noise levels in apartments would come within the standard noise level limitations.

13.11.4. Significant levels of vibration were not noted in the area during baselines studies.

Vibration during the construction programme is primarily associated with the ground-breaking activities, including the piled foundations, which would be of a short-term duration. The main potential source of vibration levels at the neighbouring receptors are not expected to pose any significance in terms of cosmetic or structural damage to any of the residential or sensitive buildings in proximity to the development works. Vibration impacts at sensitive receptors during the construction phase would be mitigated by standard practices and conditions can be attached to further address this.

13.11.5. I have considered all of the written submissions made in relation to noise and vibration. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures that form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of noise and vibration. With regard to cumulative impacts, no significant cumulative impacts from noise and vibration are anticipated.

13.12. Landscape and Visual Impact Assessment

13.12.1. Chapter 6 outlines the landscape and visual impacts that would arise from the development. To avoid repetition, I have assessed in detail the impact of the scale and height of the proposed development on the environs of the site from an urban design and planning perspective in the planning assessment of my report (see section 12.3).

13.12.2. The EIAR states that the character of the site environs is defined by sprawling industrial and retail estates occupied by large, low buildings and extensive hard-standings and parking areas. Recently permitted developments affecting the townscape baseline situation are identified from the outset. Other developments of note in the vicinity include the eight-storey apartment scheme at the junction of the Old Naas Road and Kylemore Road, which is 300m to the northwest of the application site.

- 13.12.3. The site primarily comprises low-rise large buildings and artificial surfaces generally used for yard space and car parking, with a treeline on the eastern boundary. The site does not include any protected structures, nor is it subject of any conservation status, such as ACA designation. The nearest Protected Structure is Naisetra House, 100m to the northeast. The Development Plan or Local Area Plan do not identify any protected views or landscapes of particular value directly effecting the site. The most sensitive receptor in the neighbouring environs from a visual perspective is Drimnagh Castle, which is 250m to the southeast across the post-primary school playing fields. Policy GI8 of the Local Area Plan recognises the importance of Drimnagh Castle and aims to protect views and vistas, and to improve linkages to the Lansdowne Valley park.
- 13.12.4. The Planning Authority consider that the density, height and design of the proposed development would help to improve the visual amenities of the area and is a suitable response given the design guidance contained in the Local Area Plan. Observers consider the proposals to materially contravene the provisions of the Development Plan and the Local Area Plan with respect to their visual impact.
- 13.12.5. A booklet of verified views and CGIs, as well as contextual elevations and photomontages, accompanied the application and the EIAR. A total of nine short and medium-range viewpoints are assessed in the visual impact assessment, as well as comparisons with the previously permitted development (ABP ref. 304383-19) and the cumulative visual impact alongside other permitted developments. Ten CGIs have also been submitted. I have viewed the site from a variety of locations in the surrounding area, and I am satisfied that the photomontages are taken from locations, contexts, distances and angles, which provide a comprehensive representation of the likely visual impacts from key reference points. The CGIs include visual representations, which I am satisfied would be likely to provide a reasonably accurate portrayal of the completed development in summer settings with the proposed landscaping in a mature and well-maintained condition. The following table 5 provides a summary assessment of the likely visual change from the applicant's selected viewpoints with the completed proposed development in situ.

Table 5. Viewpoint Changes

No.	Location	Description of Change
01a	Naas Road (east)– 110m northeast	All levels to front blocks and upper four levels to rear block F would be visible, with partial obstruction of views by low level features such as trees, buildings and street infrastructures. The level of visual change from this medium-range view would be substantial from this location, with positive implications in redeveloping the site and the change would be in keeping with the emerging receiving urban environment.
01b	Naas Road (adjacent)– 20m northeast	All levels visible along the Naas Road and Carriglea industrial estate road. The level of visual change from this short-range view would be substantial from this location, with positive implications in redeveloping the site and the change would be in keeping with the emerging receiving urban environment.
02A	Naas Road (west) – 200m west	Upper levels onto the Naas Road would be visible, with partial obstruction of views by low level features such as trees and street infrastructures. The level of visual change from this medium-range view would be moderate from this location and the change would be in keeping with the emerging receiving urban environment.
02B	Naas Road – 100m west	All levels visible along the Naas Road with partial screening by an electricity pylon. The level of visual change from this medium-range view would be moderate from this location, with positive implications in redeveloping the site and the change would be in keeping with the emerging receiving urban environment.
03	Lansdowne Gate – 300m southeast	Upper-level building formation for would only be visible, with remainder substantially screened by mature trees and buildings within Carriglea industrial estate and Lansdowne Gate. I consider the magnitude of visual change from this medium-range view to be slight in the context of the receiving urban environment.

04A	Drimnagh Castle approach – 330m southeast	Visibility of the subject development would be restricted by the existing mature trees within the neighbouring school and castle grounds. I consider the magnitude of visual change from this medium-range view to be negligible in the context of the receiving urban environment.
04B	Drimnagh Castle enclosure – 300m southeast	Visibility of the subject development would be restricted by the existing mature trees within the neighbouring school and castle grounds. I consider the magnitude of visual change from this medium-range view to be negligible in the context of the receiving urban environment.
05	Long Mile Road – 350m south	Visibility of the subject development would be restricted by existing commercial buildings within this part of the neighbourhood block. I consider the magnitude of visual change from this medium-range view to be negligible in the context of the receiving urban environment.
06	Walkinstown Avenue – 240m southwest	Upper-level building formation would only be visible, with remainder substantially screened by buildings within the Nissan site. I consider the magnitude of visual change from this medium-range view to be slight in the context of the receiving urban environment.

13.12.6. The proposed development does not represent a substantial increase in height and scale when considering the existing four to seven-storey Lansdowne Gate development to the south east, the four to seven-storey structures that have been built on the Carriglea industrial estate phase 1 lands and the eight-storey block 300m to the northwest. The applicant's assessment of the visual impact highlights the aspects of the development that they consider to improve the visual amenities of the area, including the activation of the front to the Naas Road, the improved public realm and general appearance of the site, and the manner in which the proposals would tie in with the scale of other permitted developments along Naas Road. The applicant asserts that the proposed development would have not significant neutral and positive effects when viewed from eight of the nine selected viewpoints. Views of the development from Walkinstown Avenue, would result in a slight neutral change according to the applicant.

- 13.12.7. In the immediate area the development would be most visible from the Naas Road to the north and the post-primary school grounds to the south, with only intermittent views of the higher building elements from local vantage points in the adjoining residential and commercial areas. The development would be viewed as a substantial insertion into the cityscape where it is most visible and a substantive new feature overlooking the Naas Road and the industrial estate access road. Environmental conditions would also influence the appearance of the development from the viewpoints with screening by mature trees varying throughout the seasons, however, I am satisfied that the visual change would be largely imperceptible, particularly considering the scale of other permitted development in the immediate area, including phases 1 and 2 development under construction on the adjoining Carriglea industrial estate site. Telecommunication infrastructure proposed at roof level to block A would not be visible from street level and would not be evident from a distance based on the CGIs. Furthermore, development of this scale would not be unexpected in this area consequent to the Local Area Plan and Development Plan objectives for the site providing for substantive development, as well as the recent pattern of permissions for large-scale redevelopments in this area.
- 13.12.8. The proposed development would not unduly dominate or undermine the wider character of the area and the scale of the proposed development can be absorbed at a local neighbourhood level. Where potentially discernible from long range views, the proposed development would read as part of the wider urban landscape. The impact on the outlook from neighbouring residences is considered separately in section 12.5 of this report. In conclusion, I am satisfied that the visual impact of the proposed development, would not harm the character and appearance of the area and the visual change arising from the proposed development would be largely imperceptible and consistent with planning policy for this area.
- 13.12.9. I have considered all of the written submissions made in relation to landscape and visual impact, and considered in detail the urban design and place-making aspects of the proposed development in my planning assessment above. From an environmental impact perspective, I am satisfied that the identified visual impacts would be avoided, managed and mitigated by the measures that form part of the layout and design of the proposed scheme. I am therefore satisfied that the

proposed development would have acceptable direct, indirect and cumulative effects on the landscape and acceptable direct, indirect and cumulative visual impacts.

13.13. Material Assets

13.13.1. Material assets specifically addressing traffic, transport and utilities are dealt with under chapter 11 of the EIAR, while material assets addressing waste management are dealt with in chapter 12. As noted above, the development is likely to have a significant impact on material assets by increasing the housing stock that would be available in this urban area, and as noted throughout the planning assessment, the development would also improve the amenities of the area by providing new routes on the site, as envisaged in the Local Area Plan, and additional services. Observers have raised concerns in relation to public transport services and the car parking proposed. I have addressed these issues under section 12.2 (density) and section 12.6 (traffic and transport) of my report. The proposed development would have a low impact upon the operational capacity of road junctions, and the construction phase impacts on traffic would be managed as part of a construction traffic management plan. Mobility around the site would not be impaired by the hoarding to be employed as part of the construction phase and construction staff would increase use of public transport in the area. Residents of the development and other permitted developments would also place additional demands on public transport, the carrying capacity of which can be readily increased, as necessary. The development would improve connectivity within the area by linking into the neighbouring permitted developments to the south and southeast. The site has good access to public transport services and the development would feature a reasonable provision of parking relative to the appropriate standards. Consequently, significant impacts on traffic and transport are not anticipated.

13.13.2. In terms of utilities, an overview of the local water supply, foul and surface water drainage, gas and telecommunications and the electrical supply network is provided. The EIAR states that utilities required to serve the proposed development can be facilitated based on consultations with utility providers. Much of the mitigation and remedial measures for utilities overlap with other measures proposed in the EIAR, including measures to control emissions and to address the protection of soils and receiving surface water. The Planning Authority sought the attachment of a

condition requiring overhead high-voltage electricity lines to be buried prior to the commencement of the development, and I note that the applicant has stated in their Urban Design report that the 38Kv line along the southern boundary of the site would be relocated underground as part of the subject proposals. The 110Kv line is not situated on the application site.

13.13.3. A Telecommunications Report has been submitted with the application, which identified that four microwave links would be impacted by the height of the buildings proposed, although this conclusion would potentially be immaterial if the Nissan site redevelopment was constructed. As part of the proposals the applicant was advised to seek permission for two support poles affixed to ballast mounts and rising 2m above roof level, with each pole having capacity to accommodate telecommunication antenna. Details of this telecommunications infrastructure are provided on two section / elevation drawings (no. P18-062D-RAU-ZZ-ZZ-DR-A-SEC-33301 and 33302) and this infrastructure element is referenced in the application site notices. I am satisfied that sufficient details of this infrastructure has been provided with the application, as part of the drawings and Telecommunication Report.

13.13.4. A project specific construction and demolition waste management plan has been prepared for the initial phases of the project, including the removal of the existing buildings, the excavated materials and the top layer of ground, as referred to above with respect to land, soils and geology. An operational waste and recycling management plan has been prepared for the operation phase of the project based on the anticipated level of service relative to the expected population equivalents, as referenced above under section 12.4 of my planning assessment.

13.13.5. I have considered all of the written submissions made in relation to material assets, including those relating to traffic and transport, and drainage services. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures that form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of material assets, including utilities, waste management, traffic and transport.

13.14. Cultural Heritage, Archaeology and Architectural Heritage

- 13.14.1. Chapter 4 of the EIAR describes and assesses the impact of the development on archaeology, architectural heritage and cultural heritage. In terms of archaeological potential, the applicant's desk-based study was supported by a walkover field-based visual survey in January 2019 investigating the potential for the site to contain unrecorded archaeological material. The applicant's surveying assessed land-use patterns, site topography and the presence of any previously unrecorded sites of archaeological and cultural heritage interest. The site itself was noted to be highly development. Buildings of architectural significance on the site have not been identified.
- 13.14.2. A chronological description of the historical context for the site is provided and the applicant states that there are numerous recorded monuments and places (RMPs), and Protected Structures proximate to the site, of which Drimnagh Castle is the most prominent. RMP ref. DU018-036 refers to the Castle and it is included as reference 4832 in the record of Protected Structures (RPS) appended to the Development Plan. Other features of architectural heritage within the landscape surrounding the proposed development comprise the twentieth-century buildings 100m to the northeast of the site (RPS 5793), which are also included in the National Inventory of Architectural Heritage (NIAH) under reference 50080437. There is also a church 200m to the northeast of the site (RPS 835/ NIAH 50080436) and a factory 315m to the southwest (RPS 5792/ NIAH 50080484). The applicant states that little or no post-medieval architecture survives within 500m of the proposed development area, due to the suburban and highly developed nature of the landscape. The findings of known archaeological surveying in the immediate area to the site are identified in the EIAR. The conclusions of the surveying undertaken is asserted to reveal that there is no clear archaeological potential identified for the site.
- 13.14.3. The Planning Authority has requested a condition to be attached in the event of a permission to address the potential for archaeological finds on site during the construction phase of the project and based on the information available, such a condition would appear reasonable to attach.
- 13.14.4. I have considered all of the written submissions made in relation to archaeology, architectural and cultural heritage. I am satisfied that the identified impacts on

archaeology, architectural and cultural heritage would be avoided, managed and mitigated by the measures that form part of the proposed scheme. I am satisfied that the proposed development would not have any significant direct or indirect impacts on archaeology, architectural and cultural heritage.

13.15. The interaction between the above factors

13.15.1. Chapter 13 of the EIAR comprises a matrix (table 13.1) of significant interactions between each of the environmental disciplines and whether this interaction would occur at the construction or operational phase of the development. All interactions between the various elements of the project were considered and assessed both individually and cumulatively within each chapter. Where necessary, mitigation was employed to ensure that no cumulative effects would arise as a result of the interaction of the various elements of the development with one another. A total of 34 potential interactions between the assessed disciplines are considered to arise in the EIAR, including the potential for population and human health impacts to interact with seven of the ten environmental disciplines. For example, an interaction between human health and population with land, soils and geology, would arise from dust generation during construction works, which could lead to localised dust emissions at neighbouring properties, particularly during dry and windy weather conditions.

13.15.2. I have considered the interrelationships between the factors and whether these may as a whole affect the environment, even though the effects may be acceptable on an individual basis. Having considered the mitigation measures to be put in place, no residual risk of significant negative interaction between any of the disciplines was identified and no further mitigation measures were identified. I am satisfied that the various interactions were properly described in the EIAR.

13.16. Cumulative Impacts

13.16.1. The proposed development could occur in tandem with the development of other sites that are zoned for the development in the area, including the permitted development on the Carriglea industrial estate, phase 1 of which was under construction at the time of my visit to the area. Permission has also been granted for

substantive redevelopment of the Royal Liver Insurance Retail Park and the Nissan site, as discussed above. The observers assert that the EIAR fails to provide a comprehensive cumulative impact of the proposed development, including other strategic housing developments.

13.16.2. Throughout the EIAR the applicant has referred to the various cumulative impacts that may arise for each discipline, as a result of other existing and permitted developments in the environs of the site. Such development would be largely in accordance with the nature and scale of development envisaged for the area within the Development Plan and the Local Area Plan, both of which have been subject to Strategic Environment Assessment (SEA). The nature, scale, form and character of the project would generally be similar to the nature, scale, form and character of development envisaged for the site within the adopted statutory plans for this area. The actual nature and scale of the proposed development is in keeping with the zoning of the site and the other provisions of the relevant plans. The proposed development is not likely to give rise to environmental effects that were not envisaged in the statutory plans, which were subject to SEA. It is therefore concluded that the cumulative effects from the planned and permitted developments in the area and the subject project would not be likely to give rise to significant effects on the environment other than those that have been described in the EIAR and considered in this EIA.

13.17. Reasoned Conclusion on the Significant Effects

13.17.1. Having regard to the examination of environmental information set out above, to the EIAR and other information provided by the developer, and to the submissions from the Planning Authority, prescribed bodies and observers in the course of the application, it is considered that the main potential significant direct and indirect effects of the proposed development on the environment are as follows:

- direct positive impacts with regard to population and material assets, due to the substantive increase in the housing stock during operational phases;
- direct negative effects on soil during construction, which would be mitigated by the reuse of some materials on site and the implementation of measures to control emissions of sediment to water, pollutants to soil and dust to air;

- direct negative effects arising from noise and vibration during construction and operation phases, which would be mitigated by a suite of appropriate construction phase management measures and building design specifications for the proposed apartments;
- direct negative effects on air during construction, which would be mitigated by a dust minimisation plan, including a monitoring programme;
- indirect negative effects on water, which would be mitigated during the construction phase by management measures to control the emissions of sediment to water and mitigation during the operational phase by the proposed system for surface water management and the drainage of foul effluent to the public foul sewerage system;
- direct positive effects on the cityscape, as the proposed development would follow the pattern of intensive development along this gateway route to the city and would improve the amenity of the land through the provision of dedicated public open space, upgraded public realm and through routes, as envisaged in the Naas Road Lands Local Area Plan 2013 (as extended).

13.17.2. The EIAR has considered that the main significant direct and indirect effects of the proposed development on the environment would be primarily mitigated by environmental management measures, as appropriate. The assessments provided in all of the individual EIAR chapters are satisfactory, and I am satisfied with the information provided to enable the likely significant environmental effects arising as a consequence of the proposed development to be satisfactorily identified, described and assessed. The environmental impacts identified are not significant and would not justify refusing permission for the proposed development or require substantial amendments to it.

14.0 Appropriate Assessment

14.1. Introduction

14.1.1. The requirements of Article 6(3) of the Habitats Directive, related to screening the need for appropriate assessment of a project under section 177U of the Act of 2000, are considered in the following section.

14.2. Compliance with Article 6(3) of the EU Habitats Directive

14.2.1. The Habitats Directive deals with the conservation of natural habitats and of wild fauna and flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site, but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to AA of its implications for the site, in view of the site's conservation objectives. The competent authority must be satisfied that the proposal would not adversely affect the integrity of a European site before consent can be given. The proposed development at the junction of Carriglea industrial estate access road and the Naas Road, is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

14.3. Stage 1 AA Screening

14.3.1. The applicant has submitted an AA Screening Report dated November 2021 and prepared by an Environmental Scientist and Marine Biologist of Altemar. The AA Screening Report provides a description of the proposed development and identifies European Sites within the possible zone of influence of the development.

Site Location

14.3.2. A description of the site is provided in section 1 above and throughout the assessments above. The site is a brownfield site that contains commercial buildings and associated lands currently being used for a range of purposes, including car repairs and gymnasium, all serviced by public water and drainage networks. The site is stated by the applicant to be dominated by buildings and artificial surfaces (BL3). It features trees along the southern boundary, as well as amenity grass areas. The Camac River is culverted under the Naas Road to the northeast of the site flowing southeast under the Carriglea industrial estate. The Grand Canal is situated 660m to the north. No Annex I habitats were recorded within the application site during the applicant's habitat surveys and no species listed for protection under the Habitats Directive or the Wildlife Act were recorded as using the site. A single Herring Gull was identified at roof level to a building. Invasive species were not recorded on site.

Proposed Development

14.3.3. A detailed description of the proposed development is provided in section 2 above and expanded upon below where necessary. Details of the construction phase of the development are provided throughout the application documentation, including the Construction and Demolition Waste Management Plan and the Construction Environmental Management Plan. Foul wastewater from the operational phase of the proposed development would discharge to the public network for treatment at the Ringsend Wastewater Treatment Plant (WWTP). Following various standard practice construction site environmental management measures, as well as SUDS measures, surface waters would be discharged into the network running along the Naas Road before discharging at a manhole on the Naas Road to the Camac River culvert, which subsequently discharges to the River Liffey close to Heuston Station. Ultimately the resultant treated wastewaters and surface waters from the proposed development would discharge to Dublin Bay.

14.3.4. The potential direct, indirect and secondary impacts that could arise as a result of the proposed works and which could have a negative effect on the qualifying interests of European sites, include the following:

- Construction Phase – demolition, surface water runoff, disturbance and emissions, including dust, noise and vibration;
- Operation Phase – disturbance, surface water runoff and emissions to water.

Submissions and Observations

14.3.5. The submissions and observations from the Planning Authority and prescribed bodies are summarised in sections 10 and 11 of this Report. The observers refer to matters that they consider to result in shortcomings in the AA Screening Report and an inability to reach conclusions based on thorough assessment, including the construction phase impacts, as well as scientific expertise, analysis and lacunae.

European Sites

14.3.6. The nearest European sites to the application site, including Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), comprise the following:

Table 6. European Sites

Site Code	Site Name / Qualifying Interests	Distance	Direction
004024	<p>South Dublin Bay and River Tolka Estuary SPA</p> <ul style="list-style-type: none"> • Light-bellied Brent goose <i>Branta bernicla hrota</i> [A046] • Oystercatcher <i>Haematopus ostralegus</i> [A130] • Ringed plover <i>Charadrius hiaticula</i> [A137] • Grey plover <i>Pluvialis squatarola</i> [A141] • Knot <i>Calidris canutus</i> [A143] • Sanderling <i>Calidris alba</i> [A149] • Dunlin <i>Calidris alpina</i> [A149] • Bar-tailed godwit <i>Limosa lapponica</i> [A157] • Redshank <i>Tringa totanus</i> [A162] • Black-headed gull <i>Chroicocephalus ridibundus</i> [A179] • Roseate tern [A193] • Arctic tern [A194] • Wetland and waterbirds [A999] 	7.9km	east
001209	<p>Glenasmole Valley SAC</p> <ul style="list-style-type: none"> • Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210] • Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410] • Petrifying springs with tufa formation (Cratoneurion) [7220] 	7.8km	south
000210	<p>South Dublin Bay SAC</p> <ul style="list-style-type: none"> • Mudflats and sandflats not covered by seawater at low tide [1140] • Annual vegetation of drift lines [1210] • Salicornia and other annuals colonising mud and sand [1310] • Embryonic shifting dunes [2110] 	8.2km	east
004040	<p>Wicklow Mountains SPA</p> <ul style="list-style-type: none"> • Merlin (<i>Falco columbarius</i>) [A098] • Peregrine (<i>Falco peregrinus</i>) [A103] 	10.1km	south

002122	<p>Wicklow Mountains SAC</p> <ul style="list-style-type: none"> • Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110] • Natural dystrophic lakes and ponds [3160] • Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010] • European dry heaths [4030] • Alpine and Boreal heaths [4060] • Calaminarian grasslands of the <i>Violetalia calaminariae</i> [6130] • Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230] • Blanket bogs (* if active bog) [7130] • Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>) [8110] • Calcareous rocky slopes with chasmophytic vegetation [8210] • Siliceous rocky slopes with chasmophytic vegetation [8220] • Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0] • <i>Lutra lutra</i> (Otter) [1355] 	10.2km	south
004006	<p>North Bull Island SPA</p> <ul style="list-style-type: none"> • Light-bellied brent goose [A046] • Shelduck <i>Tadorna</i> [A048] • Teal <i>Anas crecca</i> [A054] • Pintail <i>Anas acuta</i> [A054] • Shoveler <i>Anas clypeata</i> [A056] • Oystercatcher [A130] • Golden plover <i>Pluvialis apricaria</i> [A140] • Grey plover [A141] • Knot [A143] • Sanderling [A144] • Dunlin [A149] • Black-tailed godwit <i>Limosa</i> [A156] • Bar-tailed godwit [A157] • Curlew <i>Numenius arquata</i> [A160] 	10.9km	northeast

	<ul style="list-style-type: none"> • Redshank [A162] • Turnstone <i>Arenaria totanus</i> [A169] • Black-headed gull [A179] • Wetland and waterbirds [A999] 		
000206	<p>North Dublin Bay SAC</p> <ul style="list-style-type: none"> • Mudflats and sandflats not covered by seawater at low tide [1140] • Annual vegetation of drift lines [1210] • Salicornia and other annuals colonising mud and sand [1310] • Atlantic salt meadows [1330] • Mediterranean salt meadows [1410] • Embryonic shifting dunes [2110] • Shifting dunes along the shoreline with marram grass <i>Ammophila arenaria</i> (white dunes) [2120] • Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] • Humid dune slacks [2190] • Petalwort <i>Petalophyllum ralfsii</i> [1395] 	10.9km	northeast
001398	<p>Rye Water Valley / Carton SAC</p> <ul style="list-style-type: none"> • Petrifying springs with tufa formation (Cratoneurion) [7220] • <i>Vertigo angustior</i> (Narrow-mouthed Whorl Snail) [1014] • <i>Vertigo moulinsiana</i> (Desmoulin's Whorl Snail) [1016] 	11.0km	northwest
004113	<p>Howth Head Coast SAC</p> <ul style="list-style-type: none"> • Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] • European dry heaths [4030] 	15.3km	northeast
000199	<p>Baldoyle Bay SAC</p> <ul style="list-style-type: none"> • Mudflats and sandflats not covered by seawater at low tide [1140] • Salicornia and other annuals colonising mud and sand [1310] • Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330] • Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] 	15.4km	northeast

004016	Baldoyle Bay SPA <ul style="list-style-type: none"> • Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] • Shelduck (<i>Tadorna tadorna</i>) [A048] • Ringed Plover (<i>Charadrius hiaticula</i>) [A137] • Golden Plover (<i>Pluvialis apricaria</i>) [A140] • Grey Plover (<i>Pluvialis squatarola</i>) [A141] • Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] • Wetland and Waterbirds [A999] 	15.9km	northeast
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14.3.7. In determining the zone of influence I have had regard to the nature and scale of the project, the distance from the development site to European sites, and any potential pathways that may exist from the development site to a European Site, aided in part by the EPA AA Tool (www.epa.ie). Table 2 of the applicant's screening report identifies the potential links of European sites with the application site. Distances and direction from the site to European sites are listed in table 6 above. I do not consider that any other European Sites other than those identified in table 7 potentially fall within the zone of influence of the project, having regard to the nature and scale of the development, the distance from the development site to same, and the lack of an obvious pathway to same from the development site.

Table 7. Identification of relevant European Sites using Source-Pathway-Receptor model and compilation of information (Qualifying Interests and Conservation Objectives)

Site Name / Code	Qualifying Interests (QIs) / Special Conservation Interest (SCIs)	Connections	Consider Further
South Dublin Bay and River Tolka Estuary SPA 004024	QIs – 14 bird species https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004024.pdf	Yes Weak hydrological connections exist through: Surface water ultimately discharging to Dublin Bay	Yes
North Bull Island SPA 004006	QIs – 18 bird species To maintain the favourable conservation condition of the wetland habitat in North Bull Island SPA as a resource for the regularly occurring migratory waterbirds that utilise it	Wastewater from the site passes and would be treated in Ringsend WWTP, which also discharges to Dublin Bay.	

	To maintain the favourable conservation condition of the qualifying species	Conservation objectives of these sites do not specifically include Herring Gull although there is reference to 'waterbirds'.	
North Dublin Bay SAC 000206	QIs – ten coastal habitats and species https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000206.pdf		
South Dublin Bay SAC 000210	QIs - Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110] https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000210.pdf		

14.4. Potential Effects

14.4.1. Habitat loss and fragmentation would not arise given the location and nature of the site. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

- increased noise, dust and/or vibrations as a result of construction activity;
- surface water drainage from the proposed development site;
- increased wastewater being sent to Ringsend Wastewater Treatment Plant during the operational phase of the proposed development.

Construction Phase

14.4.2. Having regard to the information submitted with the application, including the Civil Engineering Infrastructure and Flood Risk Assessment Report, the Construction Environmental Management Plan and the Construction and Demolition Waste

Management Plan, pollution sources would be controlled through the use of normal best practice site management. The proposed construction management measures outlined are typical and well-proven construction (and demolition) methods and would be expected by any competent developer whether or not they were explicitly required by the terms and conditions of a planning permission. Furthermore, their implementation would be necessary for a residential and commercial development on any site, in order to protect the surrounding environs, regardless of proximity or connections to any European site or any intention to protect a European site. I am satisfied that the construction practices set out are not designed or intended specifically to mitigate any potential effect on a European site.

- 14.4.3. There are no surface watercourses on site based on the survey data for the site and the drainage proposals submitted. The nearest watercourse is culverted under the Naas Road approximately 50m to the northeast of the site. Surface water from the proposed development would drain to the surface water sewer along the Naas Road, prior to discharge to the culverted Camac River, which ultimately drains to Dublin Bay coastal waters. According to the EPA, the water quality of the Dublin Bay coastal waterbody is classified as 'good' and is 'not at risk' based on categorisation for the purposes of the WFD.
- 14.4.4. I am satisfied that the potential for likely significant effects on the qualifying interests of European sites in Dublin Bay can be excluded given the absence of a likely pollution source on the site, the considerable intervening distances and the volume of waters separating the application site from European sites in Dublin Bay (dilution factor).
- 14.4.5. Survey details provided with the applicant's AA Screening report and the Biodiversity section of the EIAR do not highlight qualifying interest species or other species associated with the conservation objectives of European sites habituating the site or its adjoining area. The development would not increase disturbance effects to birds in Dublin Bay, including during construction (and operational) phases, given the separation distance from these sensitive areas across an extensive urban area.
- 14.4.6. In the event that the pollution and sediment-control measures were not implemented or failed during the construction phase, I remain satisfied that the potential for likely significant effects on the qualifying interests of European sites can be excluded given

the distant and interrupted hydrological connection, the nature and scale of the development and the distance and volume of water separating the application site from European sites in the Dublin Bay area (dilution factor).

- 14.4.7. The construction phase will not result in significant environmental impacts that could affect European Sites within the wider catchment area.

Operational Phase

- 14.4.8. During the operational stage surface water from the site would be discharged at rates compliant with the Greater Dublin Regional Code of Practice for Drainage Works to the public surface water drainage system after passing through an attenuation tank and a flow-control hydrobrake. In the event that the pollution control and surface water treatment measures were not implemented or failed, I remain satisfied that the potential for likely significant effects on the qualifying interests of European sites in Dublin Bay can be excluded given the distant and interrupted hydrological connection, the nature and scale of the development featuring a piped surface water network, including standard control features, and the distance and volume of water separating the application site from European sites in the Dublin Bay area (dilution factor).

- 14.4.9. Wastewater would ultimately be treated at Ringsend Wastewater Treatment Plant (WWTP) and, according to the applicant, the proposed development would result in a residential loading equivalent to 1,471 persons, as well as an additional loading of 210 persons for the commercial uses. Having regard to the scale of the development proposed, it is considered that the development would result in an insignificant increase in the loading at Ringsend WWTP, which would in any event be subject to Irish Water consent, and would only be given where compliance with EPA licencing in respect of the operation of the plant was not breached. Notwithstanding this, water quality is not a target for the maintenance of any of the qualifying interests within the SACs closest to Ringsend WWTP (i.e. South Dublin Bay SAC and North Dublin Bay SAC). Their qualifying interest targets relate to habitat distribution and area, as well as vegetation structure and the control of negative indicator species and scrub. The development would not lead to any impacts upon these qualifying interests, consequent to changes to the physical

structure of the habitats or to the vegetation structure that defines their favourable conservation status.

14.4.10. On the basis of the foregoing, I conclude that the proposed development would not impact the overall water quality status of Dublin Bay and that there is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of European sites in or associated with Dublin Bay via surface water runoff and emissions to water.

14.4.11. The observers refer to the potential collision risk and flight risk for birds. Studies suggests that it is smaller passerine birds and nocturnal migrating passerines in particular (migrating in large flocks), that are more susceptible to collision with buildings with extensive glass facades or very high buildings with extensive lighting. While large birds such as swans and geese are known to be potentially at risk from collision with less visible structures, such as overhead wires, particularly if they are located between feeding and roosting sites, there is little evidence to suggest that buildings could pose a significant risk to these species in the context of the proposed development. There are much higher buildings in and around Dublin Bay and the city centre that are crossed daily by birds moving out of the coastal area to inland feeding sites without incident. Furthermore, the supporting documents for the conservation objectives and the Natura 2000 data forms for the SPA sites do not refer to any collision risks. Buildings of similar heights to those proposed are common in urban environments and there is no objective evidence to suggest that they would present a significant risk of collision for birds. Therefore, I consider it reasonable to screen out the potential for bird collisions with the proposed buildings to be a likely significant effect of the proposed development in view of the conservation objectives for the SPA sites.

In-combination Impacts

14.4.12. This project is taking place within the context of greater levels of construction development and associated increases in residential density in the Dublin area. This can act in a cumulative manner through surface water run-off and increased volumes to the Ringsend WWTP.

14.4.13. The expansion of the city is catered for through land use planning by the various Planning Authorities in the Dublin area, including the Dublin City Development Plan

2016-2022 and the Naas Road Lands Local Area Plan 2013. Both the Development Plan and Local Area Plan have been subject to AA by the Planning Authority, who concluded that their implementation would not result in significant adverse effects on the integrity of any European sites. The proposal would not generate significant demands on the existing municipal sewers for foul water. While this project would marginally add to the loadings to the municipal sewer, evidence shows that negative effects to European sites are not arising. Furthermore, I note that the first phase of upgrade works to the Ringsend WWTP extension (ABP ref. PL.29N.YA0010) serving an additional population equivalent of 400,000 persons were completed in December 2021 and the facility is currently operating under the EPA licencing regime that was subject to AA Screening.

14.4.14. The development is not associated with any loss of semi-natural habitat or pollution that could act in a cumulative manner to result in significant negative effects to any European site. I am satisfied that there are no projects which can act in combination with the development that could give rise to significant effects to European sites within the zone of influence.

AA Screening Conclusion

14.4.15. The significant distance between the proposed development site and any European sites, and the very weak ecological pathways are such that the proposal would not result in any likely changes to the European sites that comprise part of the Natura 2000 network in Dublin Bay.

14.4.16. The proposed development was considered in light of the requirements of Section 177U of the Act. Having carried out screening for AA of the project, it has been concluded that the project individually or in combination with other plans or projects, would not have a significant effect on European sites, including European Site No. 004024 (South Dublin Bay and River Tolka Estuary SPA), European Site No. 004006 (North Bull Island SPA), European Site No. 000206 (North Dublin Bay SAC) and European Site No. 000210 (South Dublin Bay SAC) in view of the sites' Conservation Objectives, and Appropriate Assessment is not, therefore, required.

14.4.17. The possibility of significant effects on other European sites has been excluded on the basis of objective information. Measures intended to reduce or avoid significant effects on European sites have not been considered in the screening process.

15.0 Conclusion and Recommendation

15.1. Having regard to the above assessment, I recommend that section 9(4)(a) of the Act of 2016 be applied and that permission be granted for the proposed development, subject to conditions, for the reasons and considerations set out in the draft Order below.

16.0 Recommended Order

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 15th day of December, 2021, by Silvermount Limited care of John Spain Associates of 39 Fitzwilliam Place, Dublin 2.

Proposed Development:

The development will consist of:

- the demolition and removal of all buildings on site measuring a stated gross floor area (GFA) of 8,660sq.m;
- the provision of 545 build-to-rent apartments in six blocks (A to F) ranging from single to ten storeys over basement level;
- the provision of 12 non-residential units at ground and first-floor levels to block A, including a commercial/retail unit (345 sq.m), a shop (147sq.m), shop/convenience store (419 sq.m), five café/restaurants ranging in size from (46sq.m. to 329 sq.m), a childcare facility (379 sq.m) with associated outdoor play space (151 sq.m), medical centre (521 sq.m) and two shared office spaces (566 sq.m and 150 sq.m);
- the provision of resident support facilities, including reception / concierge, waste management facilities, and the provision of resident services and amenities including, internal common areas, shared-work space and multi-function event spaces (2,523 sq.m);
- two vehicular access from Carriglea industrial estate road to a front surface-level car park and to a rear basement-level car park, as well as pedestrian

and cyclist routes, including pedestrian crossing and upgraded footpath along the Naas Road;

- internal shared surface, fire tender, pedestrian and cyclist routes, lighting and signage;
- a total of 270 car parking spaces, including ten car-club spaces, as well as 668 cycle parking spaces;
- the provision of hard and soft landscaping, including courtyard and roof terrace communal spaces, revised boundary treatments, public open space measuring a stated 2,593sq.m, a statue, play areas including public playground (812sq.m);
- drainage and civils works to facilitate the development, sustainable urban drainage systems (SUDS), surface and foul drainage infrastructure and all other associated and ancillary development/works, including the provision of green roofs, screened plant areas and photovoltaic panels at roof level, eight microwave link dishes installed on two 2m-high steel poles with associated equipment on the rooftop of Block A, four electricity substations and switch rooms.

at the Concorde Industrial Estate, Naas Road, Dublin 12.

Decision

Grant permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- a) The policies and objectives of the Dublin City Development Plan 2016-2022;
- b) The policies and objectives of the Naas Road Lands Local Area Plan 2013;
- c) The Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031', which supports compact sustainable growth and accelerated housing delivery integrated with enabling infrastructure;
- d) The Rebuilding Ireland Action Plan for Housing and Homelessness (Government of Ireland, 2016);
- e) The provisions of Housing for All - A New Housing Plan for Ireland, issued by the Department of Housing, Local Government and Heritage in September 2021;
- f) The National Planning Framework, Project Ireland 2040, which identifies the importance of compact growth;
- g) The provisions of the Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2018;
- h) The provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2020;
- i) The provisions of Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009) issued by the Department of Environment, Heritage and Local Government in May 2009;
- j) The provisions of the Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices) issued by the Department of Environment, Heritage and Local Government in 2009;
- k) The provisions of the Design Manual for Urban Roads and Streets issued by the Department of Housing, Local Government and Heritage in 2019;

- l) The nature, scale and design of the proposed development and the availability in the area of a wide range of social, transport and water services infrastructure;
- m) The pattern of existing and permitted development in the area;
- n) Section 37(b)(2) of the Planning and Development Act 2000, as amended, whereby the Board is not precluded from granting permission for a development that materially contravenes a Development Plan;
- o) The submissions and observations received;
- p) The Chief Executive's report from the Planning Authority;
- q) The report of the Inspector.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions and observations on file, the information submitted as part of the applicant's Appropriate Assessment Screening Report and application documentation, and the Planning Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Planning Inspector and that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment

The Board completed, in compliance with section 172 of the Planning and Development Act 2000, as amended, an Environmental Impact Assessment of the proposed development, taking into account:

- a) The nature, scale and extent of the proposed development;
- b) The Environmental Impact Assessment Report and associated documentation submitted in support of the application;
- c) The submissions from the applicant, the Planning Authority, the observers, and the prescribed bodies in the course of the application; and;
- d) The Planning Inspector's report;

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, adequately identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the examination, set out in the Inspector's report, of the information contained in the environmental impact assessment report and the associated documentation submitted by the applicant and submissions made in the course of the planning application.

The Board considered and agreed with the Inspector's reasoned conclusions that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- direct positive impacts with regard to population and material assets, due to the substantive increase in the housing stock during operational phases;
- direct negative effects on soil during construction, which would be mitigated by the reuse of some materials on site and the implementation of measures to control emissions of sediment to water, pollutants to soil and dust to air;
- direct negative effects arising from noise and vibration during construction and operation phases, which would be mitigated by a suite of appropriate construction phase management measures and building design specifications for the proposed apartments;
- direct negative effects on air during construction, which would be mitigated by a dust minimisation plan, including a monitoring programme;
- indirect negative effects on water, which would be mitigated during the construction phase by management measures to control the emissions of

sediment to water and mitigation during the operational phase by the proposed system for surface water management and the drainage of foul effluent to the public foul sewerage system;

- direct positive effects on the cityscape, as the proposed development would follow the pattern of intensive development along this gateway route to the city and would improve the amenity of the land through the provision of dedicated public open space, upgraded public realm and through routes, as envisaged in the Naas Road Lands Local Area Plan 2013 (as extended).

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the environmental impact assessment report, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

Conclusions on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and scale of development, would be acceptable in terms of impacts on traffic and pedestrian safety and convenience, and would provide an acceptable form of residential amenity for future occupants.

The Board considered that with the exception of building heights, residential density and unit numbers the proposed development would be compliant with the Naas Road Lands Local Area Plan 2013, as extended, and with the exception of building heights and core strategy unit numbers the proposed development would be compliant with the Dublin City Development Plan 2016-2022, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plans for the area, it would materially contravene the Naas Road Lands Local Area Plan 2013, as extended, in relation to building height, residential density and unit numbers, and it would materially contravene the Dublin City Development Plan 2016-2022 in relation to building heights and core strategy unit numbers. The Board considers that, having regard to the provisions of section 37(2) of the Planning and Development Act 2000, as amended, the grant of permission, in material contravention of the Naas Road Lands Local Area Plan 2013, as extended, and the Dublin City Development Plan 2016-2022, would be justified for the following reasons and considerations.

- the proposed development is considered to be of strategic and national importance given its potential as a site located within the Naas Road area designated as 'Strategic Development and Regeneration Area 5 – Naas Road' in the Dublin City Development Plan 2016-2022 and its potential to substantively contribute to the achievement of the Government's national policy to increase housing supply, as set out in 'Housing for All – A New Housing Plan for Ireland' (2021) and 'Rebuilding Ireland - Action Plan for Housing and Homelessness' (2016) within the Dublin Metropolitan Area Strategic Plan Area on a high-capacity, high-frequency public transport corridor, with links to further sustainable modes of the transport network. Furthermore, the location of the application site within a Strategic Development and Regeneration Area, in itself refers to the strategic importance of the site, which elevates it above other zoned lands contained in the Development Plan. Accordingly, the Board is satisfied that the provisions set out under section 37(2)(b)(i) are applicable with respect to the material contravention of the building height, residential density and unit number provisions of the Naas Road Lands Local Area Plan 2013, as extended, and the material contravention of the building heights and core strategy unit number provisions of the Dublin City Development Plan 2016-2022;
- it is considered that permission for the proposed development should be granted having regard to objectives of the Dublin City Development Plan 2016-2022 conflicting with those of the Naas Road Lands Local Area Plan

2013, as extended, with respect to building heights. Accordingly, the Board is satisfied that the provisions set out under section 37(2)(b)(ii) are applicable with respect to the material contravention of the building height provisions of the Naas Road Lands Local Area Plan 2013, as extended, and the Dublin City Development Plan 2016-2022;

- it is considered that permission for the proposed development should be granted having regard to Government policies, as set out in the National Planning Framework, in particular national policy objectives 13 and 35, provisions set out in the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031, in particular regional policy objective 5.4, the Urban Development and Building Heights Guidelines for Planning Authorities (2018), in particular Specific Planning Policy Requirement 3(a). Accordingly, the Board is satisfied that the provisions set out under section 37(2)(b)(iii) are applicable with respect to the material contravention of the building height, residential density and unit number provisions of the Naas Road Lands Local Area Plan 2013, as extended, and the material contravention of the building height and core strategy unit number provisions of the Dublin City Development Plan 2016-2022;
- it is considered that permission for the proposed development should be granted having regard to recent neighbouring permissions in the area, including the pattern of residential density and building heights granted permission under Dublin City Council reference 3228/20 (Nissan site) and An Bord Pleanála references 311606-21 (Carriglea industrial estate site) and 307804-20 (Royal Liver Insurance Retail Park). The proposed development is to an extent, continuing on the pattern of development granted in those permissions. Accordingly, the provisions set out under section 37(2)(b)(iv) are applicable with respect to the material contravention of the building height and residential density provisions of the Naas Road Lands Local Area Plan 2013, as extended, and the material contravention of the building height provisions of the Dublin City Development Plan 2016-2022.

17.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. Revised details shall be submitted with regard to the following:
 - (a) the proposed single-storey pavilion café/restaurant building between blocks D and E shall be omitted from the scheme and the area landscaped to provide additional communal open space;
 - (b) ground-floor garden terraces shall be provided to apartments in Block F and a suitable privacy strip and/or low-level boundary treatment shall be provided between private and public amenity area;
 - (c) revised front car park layout to the northern side of block A with a reduction of surface-level commercial car parking by 14 spaces and the use of the resultant space to provide additional cycle parking and landscaping addressing standards for perpendicular spaces set out in the Design Manual for Urban Roads and Streets;
 - (d) provision of privacy screens to terraces along all walkways and pedestrian entrances to buildings adjoining terraces, including at eighth-floor level;

- (e) provision of a pedestrian and cycle route on site providing for a level connection into the permitted pedestrian and cycle routes on the Carriglea Industrial Estate site (subject of a condition under ABP ref. 311606-21);
- (f) the perpendicular car parking space located adjacent to Block F shall be omitted and the indented bay redesigned to reduce the impact on the footpath and cycle lane alignment and to facilitate improved turning area for refuse vehicles;
- (g) provision of revised cycle parking spaces located within compounds or bike stores, increasing staff and visitor cycle parking and providing non-standard bike spaces for both residents and visitors and electric-bike charging facilities. Shower and changing facilities shall be provided for all staff, including specific shower facilities within the childcare facility for its staff.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interests of visual and residential amenity, traffic and pedestrian safety.

3. The mitigation and monitoring measures outlined in chapter 15 of the Environmental Impact Assessment Report submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: To protect the environment.

4. Prior to commencement of development on site, the developer shall submit, for the written agreement of the planning authority, details of the Management Company established to manage the operation of the development together with a detailed and comprehensive Build-to-Rent

Management Plan that demonstrates clearly how the proposed Build-to-Rent scheme will operate.

Reason: In the interests of orderly development and the proper planning and sustainable development of the area.

5. Prior to the commencement of development, the developer shall submit details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold separately for that period. The period of 15 years shall be from the date of occupation of the first residential unit within the scheme.

Reason: In the interest of the proper planning and sustainable development of the area.

6. Prior to expiration of the 15-year period referred to in the covenant, the developer shall submit ownership details and management structures proposed for the continued operation of the entire development as a build-to-rent scheme. Any proposed amendment or deviation from the build-to-rent model, as authorised in this permission shall be subject to a separate planning application.

Reason: In the interests of orderly development and clarity.

7. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

8. The following requirements shall apply to the proposed non-residential units, including the childcare facility:
- a) Prior to the occupation of the non-residential units, finalised service details, as well as details of any proposed signage to be applied to the elevations of their respective buildings, including details of the materials, colour, lettering and depth of the signage, shall first be submitted to and agreed in writing with the Planning Authority.
 - b) The glazing to the non-residential units shall be kept free of all stickers, posters and advertisements.
 - c) The proposed restaurant /café units shall not be used for the sale of hot food for consumption off the premises without a separate grant of planning permission.

Reason: In the interest of clarity, visual amenity and the proper planning and orderly development of the area, and to allow the planning authority to assess the impact of any such development through the planning process.

9. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

10. Proposals for a development name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

11. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban roads and Streets. All findings of the submitted Quality Audit and Road Safety Audit for the proposed development shall be incorporated into the development, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of amenity and of traffic and pedestrian safety.

12. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. Residential car parking spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.
- (b) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how car, cycle, motorcycle and car-share club parking, as well as turning areas, shall be continually managed.

Reason: To ensure that adequate parking facilities and turning areas are permanently available to serve the proposed development.

13. Prior to the occupation of the development, a finalised Mobility Management Plan and Residential Travel Plan shall be submitted to and agreed in writing with the planning authority. These plans shall include

modal shift targets and shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents and staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use of sustainable modes of transport.

14. A minimum of 10% of all car parking spaces should be provided with electric vehicle charging stations/points, at least one of which should serve a car club / car share space, and ducting shall be provided for all remaining car parking spaces facilitating the installation of electric vehicle charging points/stations at a later date.

Reason: To provide for and/or future proof the development such as would facilitate the use of electric vehicles.

15. All plant, including extract ventilation systems and refrigerator condenser units, shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations. Basement ventilation shall not be positioned adjacent to apartment terraces.

Reason: In the interests of residential amenity.

16. No additional development shall take place above roof parapet level, including lift motor enclosures, air-handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

17. The developer shall enter into water and waste water connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

18. a) Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services, including construction and maintenance plan details for green roofs.
- b) Prior to commencement of development the developer shall submit to the Planning Authority for written agreement drawings providing details of the existing surface water sewers and the precise proposed connection to the existing public surface water sewer.
- c) Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit. Basement car parks shall not discharge to the storm water system.
- d) Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.
- e) A maintenance policy to include regular operational inspection and maintenance of the Sustainable Urban Drainage System infrastructure and the fuel interceptors shall be submitted to and agreed in writing with the Planning Authority prior to the occupation of proposed development and shall be implemented in accordance with that agreement.

Reason: In the interest of public health and surface water management.

19. Public lighting shall be provided in accordance with a scheme, which shall include lighting for the public open space, communal space, surface parking areas and the pedestrian / cycle routes, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The design of the lighting scheme shall take into account the existing and permitted public lighting in the surrounding area. Such lighting shall be provided prior to the making available for occupation of any unit.

Reason: In the interests of amenity and public safety.

20. All service cables associated with the proposed development, such as electrical, telecommunications and communal television, shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. Any existing over ground cables, including the 38Kv electricity line, shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

21. Prior to the commencement of development on site, the following landscaping, open space and ecology details shall be submitted to and agreed in writing with the planning authority:

a) The site shall be landscaped and earthworks carried out in accordance with the detailed comprehensive scheme of landscaping, including the Landscape Design Rationale, which accompanied the application, unless otherwise agreed in writing with the planning authority.

b) Details of hard landscaping materials, including materials for the pedestrian and cycle routes and public open space.

c) Further details of the play spaces and associated features assigned for children of all ages.

d) Details of the public artwork feature proposed to be provided as part of the public open space.

e) A report clarifying the status or absence of invasive species on the site and method to address same should invasive species be found to be present.

Reason: In the interest of the environment, local and visual amenities, and to accord with the requirements of the Naas Road Lands Local Area Plan 2013, as extended.

- 22.** A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. This schedule shall cover a period of at least three years and shall include details of the arrangements for its implementation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of visual amenity.

- 23.** (a) All areas not intended to be taken in charge by the local authority, shall be maintained by a legally-constituted management company.

(b) A map delineating those areas to be taken in charge by the Local Authority and details of the legally-constituted management company contract, and drawings/particulars describing the parts of the development for which the legally-constituted management company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential or commercial units are made available for occupation. The management scheme shall provide adequate measures for the future maintenance of public open spaces, roads and communal areas.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

24. (a) A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste, and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment and non-residential unit shall be submitted to, and agreed in writing with, the planning authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

(b) This plan shall include details of the locations and designs for bin marshalling areas serving the development.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

25. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

26. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the 'Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects', published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

27. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of the construction practice for the development, including:

- a) Location of the site and materials compound(s), including areas identified for the storage of construction refuse;
- b) Location of areas for construction site offices and staff facilities;
- c) Details of site security fencing and hoardings;
- d) Details of on-site car parking facilities for site workers during the course of construction;
- e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
- f) Measures to obviate queuing of construction traffic on the adjoining road network and to undertake works occurring close to the Luas Infrastructure, in accordance with the Transport Infrastructure Ireland's

'Code of engineering practice for works on, near, or adjacent the Luas light rail system';

- g) Details of construction phase mobility strategy, incorporating onsite mobility provisions;
- h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- i) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- j) Details of appropriate measures to mitigate vibration from construction activity in accordance with BS6472: 1992 Guide to Evaluation of Human Exposure to Vibration in Buildings (1Hz to 80Hz) and BS7385: Part 2 1990: Evaluation and Measurement for Vibration in Buildings - Guide to Damage Levels from Ground-Borne Vibration, and for the monitoring of such levels.
- k) Details of appropriate mitigation measures for noise and dust, and monitoring of such levels;
- l) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- m) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- n) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or watercourses;
- o) A record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for inspection by the planning authority;
- p) Mitigation measures to protect the operation of Luas infrastructure and services.

Reason: In the interest of amenities, public health and safety.

28. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where proposals have been submitted and agreed in writing with the Planning Authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

29. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

30. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the

planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Colm McLoughlin
Senior Planning Inspector

8th April 2022